

# **“How are Pregnant Prisoners and Their Babies Treated in the American Correctional System?”**

**An in-depth look at Prison Nurseries and Community-Based Residential  
Parenting Programs, Parental Rights and Health Care**

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## **ABSTRACT**

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The United States of America has one of the largest female prison populations in the world. American society has, since the 1980s, locked up more women than ever before due to harsher penalties for non-violent drug offenses. In fact, the increasing female incarceration rate has become so prevalent in today's American society that over a million children are left without their mothers. Research for this thesis found that despite the high numbers of pregnant inmates, there are only seven states offering prison nurseries. Furthermore, the health care in women's prisons is spotty, at best, and non-existent in many correctional facilities. It varies greatly from state to state and is, more often than not, better in the states that offer prison nurseries. Pregnant inmates do, therefore, often lack basic prenatal care, and if incarcerated in a state that does not provide a nursery, their babies are either given to relatives or placed in the foster care system. This thesis will show that the parental rights of these mothers can quickly be terminated due to the Adoption and Safe Families Act (ASFA) from 1996, which states that a child cannot stay in the foster care system for more than 15 months of any given 22 month stretch. Although the issue is difficult, this thesis argues that adoption may be in the best interest of a child if it happens directly after birth. Then the baby could gain the crucial bonding time with an adoptive parent and, most likely, have a better chance in life.

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## CHAPTER 1: INTRODUCTION

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Do babies reside behind prison walls? As a matter of fact, they do. There are currently 7 states in America offering prisoners the opportunity to keep their newborn children with them in the correctional facilities where they are serving time. Prison nurseries are not a common sight in America, but they are, nevertheless, a hotly debated theme among Americans. Sociology Professor Joanne Belknap makes the point in her book *The Invisible Woman: Gender, Crime, and Justice* that allowing inmates to raise their babies inside prison walls may be “one of the most controversial debates surrounding the imprisonment of women.”<sup>1</sup> Critics argue that prison is not a place to raise a baby. Furthermore, convicted women should not have the privilege of having their babies with them in a nursery that shows no resemblance of a prison. On the contrary, it is viewed as a “vacation” from their sentence. Prison is a place for punishment, not bonding time between mother and child. Critics also say that there is no guarantee that these “prison babies” will be positively affected by this arrangement. On the other hand, supporters of prison nurseries believe children will have a better future by bonding with their mothers during their early years compared to children who do not have this opportunity. Mara Schiavocampo reports in her article “Moms Behind Bars” that prison nurseries are “partly a result of a new sense of social responsibility and the Department of Corrections' desire to keep families intact. But they are also the result of sheer numbers: there are more women in prison than ever before, and more need for programs like these.”<sup>2</sup> The fact of the matter is that these nurseries do not come cheap. An estimated \$24,000 a year per infant is the cost of running a nursery; however, there are several government grants available

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<sup>1</sup> Joanne Belknap. *The Invisible Woman: Gender, Crime, & Justice* (2007)

<sup>2</sup> Mara Schiavocampo. “Reporter’s Notebook: A Look at Babies Behind Bars.” The Grio, 13.04.2010  
<http://www.thegrio.com/specials/mothers-behind-bars/reporters-notebook-a-look-at-babies-behind-bars.php>

<sup>2</sup> Mara Schiavocampo. “Reporter’s Notebook: A Look at Babies Behind Bars.” The Grio, 13.04.2010  
<http://www.thegrio.com/specials/mothers-behind-bars/reporters-notebook-a-look-at-babies-behind-bars.php>  
20.10.2011

that can cover most of the expenses related to running a prison nursery.<sup>3</sup> But spending that money now is a good investment for American taxpayers, as nurseries are the pathway to reduce recidivism and prevent children of prisoners from committing crimes in the future.<sup>4</sup> This thesis is going to focus on how pregnant prisoners and their babies are treated in the American correctional system. I will present an overview of prison nurseries and community-based residential parenting programs, explain parental rights, and look at the health care provided to imprisoned women in the United States.

The importance of mother-child bonding has been well established through psychologists such as M.D.S. Ainsworth, *Attachments Beyond Infancy* and J. Bowlby, *Attachment and Loss*, and J.P. Shonkoff and S.J. Meisels, *Handbook of Early Childhood Intervention*, to mention a few. It is known that “the central aspects of human behavior are created in infancy through early primary care giving relationships.”<sup>5</sup> Thus, the experience children have as infants will color their behavior as adults. Moreover, J. Solomon & C. George, *Attachment Disorganization*, and Stroufe et al., *The Development of the Person: The Minnesota study of Risk and Adaption from Birth to Adulthood*, argue that high-risk children who experienced secure bonding with their mothers during infancy developed fewer behavioral problems when growing up than children who experienced an unstable and/or insecure bonding experience.<sup>6</sup> This argument supports the primary goal of a prison nursery: securing the crucial bonding time between mother and infant, leaving the child better equipped to face the challenges of growing up.

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<sup>3</sup> Mara Schiavocampo. “Reporter’s Notebook: A Look at Babies Behind Bars.” The Grio, 13.04.2010 <http://www.thegrio.com/specials/mothers-behind-bars/reporters-notebook-a-look-at-babies-behind-bars.php> 20.10.2011

<sup>4</sup> Mara Schiavocampo. “Reporter’s Notebook: A Look at Babies Behind Bars.” The Grio, 13.04.2010 <http://www.thegrio.com/specials/mothers-behind-bars/reporters-notebook-a-look-at-babies-behind-bars.php> 20.10.2011

<sup>5</sup> L.S. Goshin and M.W. Byrne. “Converging Streams of Opportunity for Prison Nursery Programs in the United States.” *Journal of Offender Rehabilitation* 48 (2009): 271-295 p.288

<sup>6</sup> L.S. Goshin and M.W. Byrne. “Converging Streams of Opportunity for Prison Nursery Programs in the United States.” *Journal of Offender Rehabilitation* 48(2009): 271-295



Professor Mary Woods Byrne and researcher Lorie Smith Goshin, at Columbia University School of Nursing, look more closely at the positive outcome of a prison nursery and its challenges in “Converging Streams of Opportunity for Prison Nursery Programs in the United States.” They argue that “prison nurseries be established and maintained with the resources that empirical evidence show are necessary to create positive intergenerational outcomes.”<sup>7</sup> Their argument indicates that nurseries may help both the mother and the child to adjust more efficiently to life during and after incarceration. Currently, Professor Byrne is conducting a survey called *Maternal and Child Outcomes of a Prison Nursery Program* (2003-2012) on the effect a prison nursery can have on a child, and the infants attachment to his/her mother compared to children out in the community. Collecting data from the prison nurseries at Bedford Hills Correctional Facility and Taconic Correctional Facility, respectively, the aim of the research is to:

“Identify and explore the changes in maternal-infant attachment and infant/toddler development as they occur during incarceration in a prison nursery and during the years following reentry of the infant with and without the mother. The overall goal is to enrich the knowledge base from which prison and community based parenting programs can be developed and tested and to improve the lives of incarcerated women and their children during co-detention and following release.”<sup>8</sup>

The ongoing research project has, as of 2010, found that “mothers in a prison nursery setting can raise infants who are securely attached to them at rates comparable to healthy community children, even when the mother’s own internal attachment representation has been categorized as insecure.”<sup>9</sup> This means that prison nurseries can create a strong bond between mother and child. Deborah A. Bruns, PhD at Southern Illinois University wrote the article “Promoting Mother-Child Relationships for Incarcerated Women and their Children” in 2006. Bruns claims that “there is a need to move forward in efforts to enhance mother-child bonding

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<sup>7</sup> L.S. Goshin and M.W. Byrne. “Converging Streams of Opportunity for Prison Nursery Programs in the United States.” *Journal of Offender Rehabilitation* 48 (2009): 271-295 p.290

<sup>8</sup> Dr. Mary Byrne - Prison Nursery Research  
[http://www.cumc.columbia.edu/dept/nursing/byrne/prison\\_nursery.html](http://www.cumc.columbia.edu/dept/nursing/byrne/prison_nursery.html) 19.10.2011

<sup>9</sup> M.W. Byrne, L.S. Goshin and S.S. Joestl. “Intergenerational Transmission of Attachment for Infants Raised in a Prison Nursery.” *Attachment & Human Development* 12.4 (2010): 375-393 p.375

during maternal incarceration.”<sup>10</sup> Bruns believes that the programs offered to incarcerated mothers are valuable in the sense that they prepare these mothers for their roles as caregivers after prison. The visitation time that these women get with their children is also crucial in order to “develop and/or maintain relationships during their incarceration and in preparation for release.”<sup>11</sup> Studies done by Professors Katherine Houck and Ann Loper, “The Relationship of Parenting Stress to Adjustment Among Mothers in Prison”, Julie Poehlmann, “Children’s Family Environments and Intellectual Outcomes During Maternal Incarceration” and Loper et al. “Children’s Contact With Their Incarcerated Parents: Research Findings and Recommendations” show that mothers who receive frequent visits from their children are less prone to depression and stress. However, other studies also indicate that mothers are more aggressive after their visitation time due to the lack of control they have over their child’s life.<sup>12</sup> The phone calls, letters and visits the mothers receive from their children do help them to live with the separation from their loved ones, and it helps them, to some extent, adjust more smoothly to prison life.<sup>13</sup>

Prisoners who have the privilege of bonding with their child have a lower recidivism rate than the general female prison population in the United States. Criminal-justice professor Joseph R. Carlson published the findings of a 10-year study of the Nebraska prison nursery in York in 2009, entitled “Prison Nurseries: A Pathway to Crime-Free Nurseries.” Carlson’s article concludes that “by keeping newborns with their incarcerated mothers, prisons can reduce misconduct and recidivism, as well as possibly help keep children out from behind

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<sup>10</sup> Deborah A. Bruns. “Promoting Mother-Child Relationships for Incarcerated Women and Their Children.” *Infants & Young Children* 19.4 (2006):308-322 p.317

<sup>11</sup> Deborah A. Bruns. “Promoting Mother-Child Relationships for Incarcerated Women and Their Children.” *Infants & Young Children* 19.4 (2006): 308-322 p.317

<sup>12</sup> Julie Poehlmann, et al. “Children’s Contact with their Incarcerated Parents: Research Findings and Recommendations.” *American Psychological Association* (2010)

<sup>13</sup> Katarzyna Celinska & Jane A. Siegel. “Mothers in Trouble: Coping with Actual or Pending Separation from Children due to Incarceration.” *The Prison Journal* 90 (2010): 447-474

bars when they grow up.”<sup>14</sup> Carlson supports the fact that mothers who participate in prison nursery programs have a lower recidivism rate than those that do not.<sup>15</sup> Huey Freeman reported in his article “Stopping the Cycle: Mom and Babies Program at Decatur Prison Keeps Women from Coming Back” that not one of the participants in the nursery program has returned to prison after release since 2007.<sup>16</sup> The success of the nursery’s recidivism rate is an indication that mother-child bonding can contribute to law-abiding citizens.

There are also medical studies showing that pregnant inmates get better health care than those of the same socioeconomic status who are not incarcerated. In 2005, M. Knight and E. Plugge published a survey called, “The Outcomes of Pregnancy among Imprisoned Women: A Systematic Review.” It looked at the prenatal care pregnant inmates received compared to non-offenders. The survey found that pregnant women in prison are more likely to give birth prematurely and have a baby with a lower birth weight than babies born to women outside prison. However, when comparing inmates with women of the same socioeconomic status, results revealed that the birth weight of babies born in custody were better than for those born outside of prison. Incarcerated women also had a lower chance of experiencing stillbirths.<sup>17</sup> However, being pregnant in prison takes a toll on the women, both mentally and physically. The hardships faced by some of these women are horrid. Pregnant inmates giving birth alone in their cells are not unique. Many pregnant inmates are not taken to the hospital in time for delivery, even though they have informed staff that they are in

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<sup>14</sup> Joseph Carlson. “Babies Behind Bars.” *New Frontiers*, 08.09.2010  
[http://www.unknews.com/New\\_Frontiers/story/?a=3796](http://www.unknews.com/New_Frontiers/story/?a=3796) 27.10.11

<sup>15</sup> Joseph R. Carlson Jr. “Prison Nurseries: A Pathway to Crime-Free Futures” *Corrections Compendium* 34.1 (2009)

<sup>16</sup> Huey Freeman. “Stopping the Cycle: Mom and Babies Program at Decatur Prison Keeps Women from Coming Back.” *Herald-Review.com*, 10.04.2010 [http://www.herald-review.com/news/local/article\\_0bd8ba4c-bfe2-5185-ba90-5e5ec0e837f2.html](http://www.herald-review.com/news/local/article_0bd8ba4c-bfe2-5185-ba90-5e5ec0e837f2.html) 27.10.2011

<sup>17</sup> M. Knight and E. Plugge. “The Outcomes of Pregnancy Among Imprisoned Women: A Systematic Review” *BJOG: an International Journal of Obstetrics and Gynecology* 112.11(2005):1467–1474  
<http://onlinelibrary.wiley.com/doi/10.1111/j.1471-0528.2005.00749.x/pdf> 17.10.2011

labor. Thus they are forced to give birth in front of their cellmate and/or prison guards.<sup>18</sup>

There are also incidents where pregnant prisoners are not taken seriously when it comes to abdominal pain or other inconsistencies with regard to their pregnancy, which, consequently, has led to stillbirths. So although the health outcomes for newborns in prison may be better than for their peers of the same socioeconomic status out in the community, pregnant inmates can be treated harsh and often much harsher than non-pregnant inmates.

Health care is free for the prison population in the United States—though the degree of good care for non-pregnant prisoners is debatable. Doctors, nurses, and social workers give prisoners the prenatal care they would not have received on the outside. Many of these women are drug addicts, and in prison they do not have the opportunity to fuel their addictions and are therefore not harming their fetuses. However, being pregnant in prison is no picnic. The birth often happens while a woman is chained to the delivery bed. Shawanna Nelson is one of many pregnant inmates who experienced giving birth in shackles. Nelson, an inmate at Arkansas Department of Corrections, was 5-and-a-half months pregnant while serving a 6-year sentence for passing bad checks. Nelson talks about her difficult delivery in a short film called “In Labor and in Chains.” The health risks to both mother and child due to shackling can be severe. Maureen Phipps, associate professor of obstetrics and gynecology at Brown University, says that “it’s vital for a woman to move around early in labor to appease pain and expedite delivery. Should an emergency arise, including the need for a cesarean section, precious seconds are lost uncuffing a woman, potentially preventing a doctor from delivering necessary care.”<sup>19</sup> Giving birth is a private and vulnerable affair, so having to do so in front of prison guards leaves the women feeling exposed and degraded.

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<sup>18</sup> Rachel Roth. “Pregnant, in Prison and Denied Care.” Women + Prison: A site for Resistance [http://womenandprison.org/motherhood/view/pregnant\\_in\\_prison\\_and\\_denied\\_care/](http://womenandprison.org/motherhood/view/pregnant_in_prison_and_denied_care/) 24.01.2012

<sup>19</sup> Alex Berg. “Stop Shackling Pregnant Prisoners.” The Daily Beast, 04.09.2011. <http://www.thedailybeast.com/articles/2011/09/04/stop-shackling-pregnant-prisoners-new-push-to-ban-controversial-practice.html> 30.01.2012

Women who are “lucky” to be imprisoned in a state that has a prison nursery, who do not have a violent offense on their record and are sentenced to fairly short sentences, have the opportunity to keep their babies with them for months or years, depending on the state.

Women serving their time in states that do not offer nurseries are not so lucky. They usually have to give up their babies to relatives, friends, or Child Protective Services (CPS) within 24 hours after giving birth. The socioeconomic status of family members and/or friends raising these children varies greatly. In a few cases, they are middle class families with a fair chance of giving these children a good start at life and a prosperous future. But in most cases, these people are low-income or poor families struggling to make ends meet. A study conducted by Caitlin M. Jones entitled “Genetic and Environmental Influences on Criminal Behavior” argues that “having a genetic predisposition for criminal behavior does not determine the actions of an individual, but if they are exposed to the right environment, then their chances are greater for engaging in criminal or anti-social behavior.”<sup>20</sup> Children growing up with relatives is the most beneficial, but growing up in a crime-ridden area is not a healthy environment and may increase the child’s chances of following in their mother’s footsteps. These women need to ask themselves where their child will have the best chance in life. If they are lucky to have parents or siblings with a good and stable socioeconomic status willing to raise their baby, it can prove successful for both mother and child. If they do not, foster care or even adoption may be the best outcome for their child.

Deborah Jiang Stein, in her article “Babies Behind Bars: Nurseries for Incarcerated Mothers and Their Children,” tells of her past as a prison baby. Stein was born in the federal prison camp in Alderson, West Virginia, and she believes that the one year she spent there with her mother gave her a sense of security. The 2-3 years she spent lingering in the foster

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<sup>20</sup> Caitlin M. Jones. “Genetic and Environmental Influences on Criminal Behavior.” Rochester Institute of Technology (2005) <http://www.personalityresearch.org/papers/jones.html> 22.09.2011

care system did not. At the age of 3-4, she was adopted by a loving, middle class family.<sup>21</sup> Her story is unique and sheds an important light on the trauma a life in the foster care system can inflict on a child.

There is little scholarly work on the effects parental incarcerations have on children, but there are some studies that indicate great challenges for those who find themselves in that situation. A study conducted by Professor Julie Poehlmann of the Department of Human Development and Family Studies and the Waisman Center at the University of Wisconsin-Madison found that children (ages 2-7) of incarcerated mothers in Wisconsin “were subject to multiple biological and environmental risks. Sixty percent had been exposed to chemical substances before birth, 45% had complications at birth, and over 20% were born preterm.”<sup>22</sup> The children who resided with the same caregiver during their mother’s incarceration found themselves to be more secure towards their relationship with their mother and caregiver.<sup>23</sup> This study indicates that children who have a mother in prison are at a much higher risk of unhealthy development than other children. Other scholars, including Sophie Naudeau, have also found that children of incarcerated parents find themselves in a more vulnerable environment than their peers.<sup>24</sup>

Joanne Belknap discusses the issue of parental rights for prisoners in her book *The Invisible Woman: Gender, Crime and Justice*. According to American child welfare laws, female inmates are vulnerable when it comes to the custody of their children. The law allows “termination of parental rights if the parent has failed to maintain an adequate relationship

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<sup>21</sup> Deborah Jiang Stein. “Babies Behind Bars: Nurseries for Incarcerated Mothers and Their Children.” *Children’s Voice* 19.4 (2010) <http://www.cwla.org/voice/JA10babies.html> 27.10.2011

<sup>22</sup> Julie Poehlmann. “New Study Shows Children of Incarcerated Mothers Experience Multiple Challenges.” Policy Institute for Family Impact Seminars, 2003. [http://www.familyimpactseminars.org/fia\\_nlarticle\\_v3i2.pdf](http://www.familyimpactseminars.org/fia_nlarticle_v3i2.pdf) 06.12.2011

<sup>23</sup> Julie Poehlmann. “New Study Shows Children of Incarcerated Mothers Experience Multiple Challenges.” Policy Institute for Family Impact Seminars, 2003. [http://www.familyimpactseminars.org/fia\\_nlarticle\\_v3i2.pdf](http://www.familyimpactseminars.org/fia_nlarticle_v3i2.pdf) 06.12.2011

<sup>24</sup> Sophie Naudeau. “Children of Incarcerated Parents: Developmental Trajectories Among School-Age Children” in Harris, Graham and Carpenter *Children of Incarcerated Parents: Theoretical, Developmental, and Clinical Issues* (2010)

with a child who is in foster care. Imprisonment, by its very nature, poses serious obstacles to the maintenance of the mother-child relationship.”<sup>25</sup> Being incarcerated in a rural prison far away from your family makes it difficult for many mothers to keep in touch with their children. The Adoption and Safe Families Act (ASFA) is a law that helps terminate parental rights quickly in order for children in the foster care system to be eligible for adoption. The ASFA law is intended to help prevent children from lingering in the foster care system while awaiting permanent homes, and thus this law can be a threat to incarcerated mothers who can be separated from their children for a lengthy period of time.

Although little is known about the future consequences of raising a child in prison, there are some studies, including Dr. Mary Byrne’s, that indicate a positive outcome both for the child and the mother. Criminal Justice Professor Joseph R. Carlson believes prison nurseries are “a win-win situation”<sup>26</sup> for both mother and child, as they help the women transform back into society as upstanding citizens and keep themselves and their children out of prison.<sup>27</sup> Furthermore, the various prison nursery programs make an effort to help these women be better parents. Lamaze classes and educational programs on child rearing, breast feeding, and parenting are mandatory in most of the nurseries. In Nebraska, for example, women who do not have their high school diploma must earn their GED in order to stay in the program.<sup>28</sup> These programs may not be available to most women of the same socioeconomic status outside of the prison walls.

For most of these women, the outside world is chaotic and is, in many cases, not a healthy place to raise a baby. The majority of children born to criminal mothers face a greater risk than others of experiencing a range of setbacks that can affect their prospects for a bright

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<sup>25</sup>Joanne Belknap. *The Invisible Woman: Gender, Crime and Justice* (2001)p.179

<sup>26</sup> Suzanne Smalley. ”Bringing up Baby in the Big House” The Daily Beast, 13.05.2009.  
<http://www.thedailybeast.com/newsweek/2009/05/13/bringing-up-baby-in-the-big-house.html> 20.10.2011

<sup>27</sup>Suzanne Smalley. ”Bringing up Baby in the Big House” The Daily Beast, 13.05.2009.  
<http://www.thedailybeast.com/newsweek/2009/05/13/bringing-up-baby-in-the-big-house.html> 20.10.2011

<sup>28</sup> Joseph R. Carlson, Jr. “Prison Nurseries: A Pathway to Crime-Free Futures” *Corrections Compendium* 34.1 (2009)p.20

future. Before entering this world, many babies do not get the vital prenatal care they need, because their mothers are not taking care of themselves and they are not doing what is in the best interest of their unborn child. In a prison setting, however, women are supervised 24/7, with no chance of (or at least less chance of) using drugs and are given the prenatal care that is essential to the growth and health of their babies. Without the stress and drama of the outside world, these women can concentrate and focus entirely on their newborn babies. Prison nurseries may therefore help women succeed as mothers, more so than for those with the same socioeconomic status who are not incarcerated.

## **1.2 The History of Female Incarceration and Prison Nurseries in the United States**

The prison system in the United States in the early 1800s was built on a custodial model that was designed to “separate inmates from the community to limit exposure to outside corruption, so they could focus on reform.”<sup>29</sup> Female prisoners were not a common sight in the early years, as judges viewed their crimes to be less dangerous than those of men. Mothers and women with non-violent offenses did, more often than not, avoid prison sentences. Female incarceration became more rampant, however, after 1815.<sup>30</sup> Historian Estelle B. Freedman has argued in her book *Their Sisters’ Keepers: Women’s Prison Reform in America, 1830-1930* that the increase in female prisoners between 1815 and 1860 is “attributable to urbanization and to the appearance of new agents of social control, including city police and moral reformers who promoted sexual purity and temperance for both women and men, and who were instrumental to the prohibition movement as well as to the passing of laws raising the age of consent.”<sup>31</sup> The moral reforms that swept the country meant a change in the type of crimes women were prosecuted for. Women were now sent to prison for

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<sup>29</sup> Susan C. Craig. “Historical Review of Mother-Child Programs.” *The Prison Journal* 89.1 (2009)p.39

<sup>30</sup> Susan C. Craig. “Historical Review of Mother-Child Programs.” *The Prison Journal* 89.1 (2009)

<sup>31</sup> Susan C. Craig. “Historical Review of Mother-Child Programs.” *The Prison Journal* 89.1 (2009) p.39



“unlawful personal behavior—drunkenness, idle and disorderly conduct, and vagrancy,”<sup>32</sup> rather than more serious offenses, such as violent crimes. As job opportunities were limited and wages were low, some women resorted to prostitution, a profession condemned by the social purity movement. The female inmate of the 19<sup>th</sup> century was often referred to as a “fallen woman,” and was treated harshly in the prison system.<sup>33</sup> According to Freedman, this stigma often resulted in women being “neglected and often subjected to overcrowding, harsh treatment, and sexual abuse.”<sup>34</sup>

Within the prison facility, often together with men, women were subjected to “strapping, handcuffing, solitary confinement, removing jewelry, taking their babies away, flogging, and abuse by male prisoners.”<sup>35</sup> Pregnant women and newborn babies were not uncommon within the prison facilities, and they were treated poorly. One of those inmates was Rachel Welch, who became pregnant while in solitary confinement at Auburn prison in New York. Welch was exposed to multiple floggings while pregnant and died while giving birth in 1826. Her story changed the prison system in the United States with the 1828 law, requiring that female and male prisoners be separated.<sup>36</sup>

Progressive-era maternity programs existed in several New York prisons. Western House of Refuge at Albion reported that women could keep their babies with them up to the age of 2 years. Lawmakers at the time believed the responsibilities that came with caring for a baby would make the prisoners better mothers and better citizens when released from prison.<sup>37</sup> So called “reformatories” were also built across the country in the early 1900s. Women prosecuted for fornication, adultery, or drunkenness were sent to a reformatory instead of prison. According to 19<sup>th</sup> century middle class values, women were “sensitive and

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<sup>32</sup> Susan C. Craig. “Historical Review of Mother-Child Programs.” *The Prison Journal* 89.1 (2009) p.39

<sup>33</sup> Susan C. Craig. “Historical Review of Mother-Child Programs.” *The Prison Journal* 89.1 (2009)

<sup>34</sup> Estelle B. Freedman. *Their Sisters’ Keepers: Women’s Prison Reform in America, 1830-1930* (1981) p.15

<sup>35</sup> Susan C. Craig. “Historical Review of Mother-Child Programs.” *The Prison Journal* 89.1 (2009) p.39

<sup>36</sup> Susan C. Craig. “Historical Review of Mother-Child Programs.” *The Prison Journal* 89.1 (2009)

<sup>37</sup> Susan C. Craig. “Historical Review of Mother-Child Programs.” *The Prison Journal* 89.1 (2009)

domestic by nature”<sup>38</sup> and could not be transformed into upstanding citizens in a prison setting. Most of the reformatories were set in rural areas where the women worked the fields and tended domestic chores around the facility. Some reformatories also allowed children up to the age of 2 years to stay with their mothers.<sup>39</sup>

The longest running prison nursery in the United States is the State Correction Institution at Bedford Hills, New York. The facility has allowed female felons to keep their newborns with them since 1901. The newborns could stay behind bars until their first birthday. Today the babies can stay for 18 months. Another early prison nursery program was located at the State Reformatory for Women at Sherborn, Massachusetts. The cottages were decorated for the purpose of mother-child bonding, and the needs of the mother and child were taken seriously:

“The physical needs of the woman and children at the Reformatory are carefully looked after. The medical staff consists of a resident woman physician, eight nurses, four of whom are especially for the children, an X-ray and laboratory technician, several interns from Harvard and Tufts Medical Schools who devote part time to this work as do a senior surgeon, an ear, eye and nose specialist, a pediatrician, a psychiatrist, and a dentist.”<sup>40</sup>

Maternity cottages were filled with medical personnel assisting the mothers-to-be with prenatal care, such as a special diet and necessary physical checkups. The women at Sherborn prison were sent to the State Infirmary at Tewksbury to deliver their babies.<sup>41</sup>

A Dutch scientist, E.C. Lekkerkerker, found in his study “Reformatories for Women in the United States,” from 1931, that mother-child cottages varied greatly from reformatory to reformatory. In some facilities, pregnant women were immediately sent to a maternity cottage where they could “be more easily instructed in the proper hygiene regarding herself, in the making of layette and in the care of the babies.”<sup>42</sup> Lekkerkerker described:

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<sup>38</sup> Susan C. Craig. “Historical Review of Mother-Child Programs.” *The Prison Journal* 89.1 (2009) p.41

<sup>39</sup> Susan C. Craig. “Historical Review of Mother-Child Programs.” *The Prison Journal* 89.1 (2009)

<sup>40</sup> Sheldon Glueck & Eleanor Glueck. *Five Hundred Delinquent Women* (1934) p.25-26

<sup>41</sup> Sheldon Glueck & Eleanor Glueck. *Five Hundred Delinquent Women* (1934)

<sup>42</sup> E.C. Lekkerkerker. “Reformatories for Women in the United States.” (1931) p.528

“fine maternity cottages with nursery rooms, play-and sleeping-porches, etc., at, among others, those of Clinton Farms, NY and the Connecticut and Federal reformatories. . . . The care which is provided for the babies in some reformatories is excellent: In Connecticut, for example, the babies are under the supervision of a special pediatric who comes to the institution at least once a week, and in Clinton Farms, the babies are assembled every morning in a pre-nursery school, which is conducted by the recreational director who is a trained Kindergartner. Everywhere the little ones are the objects of much attention on the part of both officers and inmates, and there is no doubt that the nursery not only forms an excellent opportunity for the inmates for practical training in children care, but it also brightens much the reformatory life for the adults, and that to some of them the babies have been a genuine help in their adjustment.”<sup>43</sup>

Lekkerkerker describes nurseries that focus on the critical bond formed between mother and child during the first years of the child’s life. It draws much resemblance to contemporary prison nurseries.

The federal prison in Alderson, West Virginia, also allowed children to stay with their incarcerated mothers between 1930 and 1960. There are several reports on children being delivered within the prison facility during this time period, but no formal records were kept on the children.<sup>44</sup> This led the prison’s warden, Helen Hironimus, to send in her annual reports “with pictures of babies to remind the central office that the babies were uncounted inmates, lost in the cost account of the bureau.”<sup>45</sup> Not all mother-child programs were properly funded and resulted in poor environments or closure. Many reformatories and prison nurseries had to be closed down during the Great Depression of the 1930s and World War II in the 1940s due to lack of funding.<sup>46</sup>

Prison reform advocates Dean Shepard and Eugene S. Zemans conducted a survey in 1950 trying to gather data on how many babies were born to prisoners. The survey was intended for 111 correctional facilities across the United States, but only 70 replied. Shepard and Zemans found that 364 babies were born to inmates in 37 different facilities in 1947, and that 25% of them were born in prison and 75% were born in community hospitals.<sup>47</sup> The laws on children born to inmates varied greatly from state to state. Some institutions reported

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<sup>43</sup> E.C. Lekkerkerker. “Reformatories for Women in the United States.” (1931) p.530

<sup>44</sup> Susan C. Craig. “Historical Review of Mother-Child Programs.” *The Prison Journal* 89.1 (2009)

<sup>45</sup> Esther Heffernan. *Making it in Prison: The Square, the cool and the life* (1972) p. 20

<sup>46</sup> Susan C. Craig. “Historical Review of Mother-Child Programs.” *The Prison Journal* 89(1) (2009)

<sup>47</sup> Dean Shepard and Eugene S. Zemans. *Prison Babies* (1950)

having no law regarding the issue, while others had some provisions in place. The survey found that 13 states: California, Connecticut, Illinois, Kansas, Maine, Maryland, Massachusetts, Michigan, New Jersey, New York, North Carolina, Virginia, and West Virginia, had provisions that allowed infants to stay with their mothers up to two years.<sup>48</sup> Children could either be separated from their mothers immediately after birth, or they could reside with their mothers up to 3 years. It all depended on the state and/or correctional facility. Children separated from their mothers would be placed with relatives or in foster care. It is similar to the system that is in place today, although each state has clear laws and provisions on how to handle pregnant inmates and their newborns.

Federal prisons, such as Alderson, still allowed infants to stay in the prison in the 1950s, but not for 3 years, as was the case in the 1940s. Pregnant inmates were then only allowed to have their newborn with them for a few months.<sup>49</sup> Elizabeth Gurley Flynn, an inmate at Alderson from 1955 to 1957, wrote that the separation from the infant was a devastating affair:

The parting of a mother and child, especially if she faced a long sentence, was heartrending. The grief and worry of these poor women affected their health and spirits, sometimes to the point of collapse. Certainly, in these cases there should be some special provisions, especially for first-time offenders, to keep the mother and child together.<sup>50</sup>

In the 1960s, however, Alderson closed down their nursery due to an increase in births at the prison. There were also concerns with regard to medical care for the newborns, as the nearest hospital was far away from the prison. The Department of Health, Education and Welfare found that prison was no place for children, and this declaration prompted other correctional facilities to close down their nurseries as well.<sup>51</sup> Prison nurseries were also seen as being too expensive, the women too derelict, and a place where babies were being punished for their

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<sup>48</sup> Dean Shepard and Eugene S. Zemans. *Prison Babies* (1950)

<sup>49</sup> Susan C. Craig. "Historical Review of Mother-Child Programs." *The Prison Journal* 89.1 (2009)

<sup>50</sup> Elizabeth G. Flynn. *The Alderson Story: My life as a Political Prisoner* (1963) p. 89

<sup>51</sup> Susan C. Craig. "Historical Review of Mother-Child Programs." *The Prison Journal* 89.1 (2009)

mothers' mistakes.<sup>52</sup> Prison nurseries resurfaced again in the 1990s and the early 2000s due to the high numbers of female offenders and the resurgence in the problem of mothers in prison.

### 1.3 Primary Sources

This thesis is built upon interviews, government reports, newspaper articles, films, and documentaries. The Institute on Women and Criminal Justice and the Women's Prison Association (WPA) conducted a national survey called *Mothers, Infants and Imprisonment: A National Look at Prison Nurseries and Community-Based Alternatives*, in 2009, which provided numbers and facts about how the American Correctional System deals with pregnant prisoners. Along with other government reports from the Bureau of Justice Statistics ("Medical Problems of Prisoners" and "Women Offenders"), the Federal Bureau of Prisons, Department of Corrections, and interviews with several social workers and scholars in the United States, an in-depth chapter on statistics was developed. I have also conducted several telephone interviews with social workers in Norway to compare how Norway handles pregnant inmates. I was also given a tour of Bredtveit prison, which gave me a broader understanding of how the prison system works.

The few documented films on prison nurseries and pregnant inmates in the United States capture the life stories of these women and their roads to motherhood behind bars. Randi Jacobs produced the documentary *A Sentence for Two* in 2008, and it conveys a powerful story of four pregnant women incarcerated in an Oregon prison. The women are forced to give up their babies right after birth, as Oregon does not have a prison nursery or any community-based alternatives available to pregnant inmates. Their struggle to find someone to care for their children is not an easy task, if family members are not an option. Foster care or adoption are two alternatives that these women can choose between. The documentary also explores the nursery at Bedford Hills Correctional Facility in New York,

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<sup>52</sup> Kelsey Kauffman. "Mothers Prison." *Corrections Today* 16.1 (2001)

where Dr. Mary Byrne has conducted her research on the impact of prison nurseries on mother and child.<sup>53</sup> The Learning Channel (TLC) premiered a documentary series called *Babies Behind Bars* in February of 2011. The series follows pregnant inmates and prison nursery participants at Indiana's Women Prison.<sup>54</sup> It depicts the lives of the offenders and their willingness to change and become better mothers through the nursery program. Furthermore, National Geographic Channel aired an episode called "Female Felons" in 2009, where a college grad student finds herself locked up and pregnant in a prison that does not have a prison nursery.<sup>55</sup> In the film *In Labor and in Chains*, inmate Shawanna Nelson talks about giving birth in shackles. Nelson, an inmate at Arkansas Department of Corrections, was 5-and-a-half-months pregnant and serving a 6-year sentence for passing bad checks. Nelson recounts her delivery as being traumatic and painful.<sup>56</sup>

Several organizations dedicate their work to female prisoners. Legal Services for Prisoners with Children, Justice Now, Aid to Inmate Mothers, The Women's Prison Association, The Rebecca Project for Human Rights, and Women + Prison: A site for Resistance are some of the largest organizations in the United States. They all work to better the conditions for women who are in prison, and especially for mothers who are incarcerated. Women + Prison: A site for Resistance, for instance, is a website that shares the stories of incarcerated and formerly incarcerated women. Here they can utter their concerns, grievances, and experiences with the correctional system. Many of the stories are told through a scholar, such as Rachel Roth, who wrote the article "Pregnant, in Prison and Denied Care." Roth describes how several pregnant inmates suffered miscarriages, stillbirths, and premature births due to neglect by prison staff. The importance of this site, and the others mentioned above, is

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<sup>53</sup> Angels Flight Productions, LLC. "A Sentence for Two."

<http://www.angelsflightproductions.net/sentence/synopsis.html> 20.10.2011

<sup>54</sup> Internet Movie Database. "Babies Behind Bars." <http://www.imdb.com/title/tt1869289/> 20.10.2011

<sup>55</sup> "Female Felons." *Lockdown*. National Geographic, S04E01. 04.06.2009

<sup>56</sup> *In Labor and in Chains*. RH Reality Check 05.10.2009 <http://www.youtube.com/watch?v=CWj1uHdxnt8> 15.02.2012

to highlight the perspective of the prisoner, who, more often than not, suffers from neglect and prejudice.

There is also a site for correctional officers called Corrections One that informs prison staff on scholarly work with regard to the correctional system and its inmates. The site interviewed Deborah Jiang Stein on her thoughts of being born in prison, titled “First Year of Life in Prison: An Interview with Deborah Jiang Stein.” It elaborates Stein’s experiences, and it sheds an important light on the debate surrounding prison nurseries versus adoption.

## **1.4 Limitations**

Some limitations of this research must be noted. Since I have not been able to travel to the United States to conduct interviews with incarcerated mothers, I have relied on surveys, interviews, and documentaries to give me sufficient information. Furthermore, collecting data on prison nurseries and community-based alternatives in the United States has been challenging. The prison nursery programs have stayed rather invisible in the United States, and the knowledge of them is sparse. The survey conducted by the Institute on Women and Criminal Justice and the Women’s Prison Association (WPA), however, has proved to be very valuable to my research. In my statistics chapter, I present the prison nurseries and community-based alternatives as shown in WPA’s survey. My challenge emerged when I was confirming the numbers and requirements documented by the WPA. There are no longer 9 states offering prison nurseries; there are only 7. California and West Virginia never opened their nurseries. To confirm this information, I got help from the policy director at Legal Services for Prisoners with Children, Karen Shain, a representative from Senator Carol Liu’s office in California, and from Dr. Mary Byrne in New York. There was no information given to me by the prisons themselves. The community-based alternatives have been somewhat easier to determine, as representatives from the various centers have answered my requests

fairly quickly; however, there have been cases where I have not been able to confirm the numbers, which means that the 2009 data will be the only facts standing.

The Norwegian government was not very forthcoming with information about pregnant prisoners in Norway. I wanted to compare the correctional system in the United States to that of the Norwegian system in regards to pregnant prisoners. Collecting data on this issue was challenging, until I got in contact with 3 women working at Bredtveit prison in Oslo. They provided me with sufficient information on how Oslo deals with incarcerated mothers. There were a few of the other women's prisons in Norway that replied to my e-mail, but there was little if anything known on the guidelines for dealing with pregnant inmates. Therefore, the part on Norway will focus primarily on pregnant prisoners in Oslo and may thus not be representative for the entire country.

In order to answer the thesis question, I have looked at the different aspects regarding the use of prison nurseries: its function and its effects; termination of parental rights and the effect parental incarceration has on children and their families; and health care provided to pregnant inmates and the controversial use of shackling during delivery. Chapter 2 deals with statistical data and provides an overview of how many state prisons actually have a prison nursery. It looks at a variety of community-based alternatives across the country and gives a presentation of the Federal Bureau of Prisons MINT Program (Mothers and Infants Nurturing Together). The chapter also presents the few, but nonetheless important, surveys conducted on the effects of prison nurseries. This includes findings from the nursery at Nebraska's Correctional Facility for Women and the nursery programs at Bedford Hills Correctional Facility and Taconic Correctional Facility, as well as the groundbreaking study conducted by Dr. Mary Byrne, *Maternal and Child Outcomes of a Prison Nursery Program*. The Norwegian system is also presented in this chapter. In chapter 3, the rights of incarcerated mothers are presented. The ASFA law and the debate over prison nurseries versus adoption



are discussed. Psychological effects on children with incarcerated parents are also examined. Chapter 4 presents the health care provided in American prisons, with prenatal and postnatal care being two important factors. The general health of infants born to incarcerated mothers is examined, as well as the debate over shackling. In chapter 5, the conclusion, the most important findings are presented.

## CHAPTER 2: STATISTICS

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### 2.0 Introduction

In the United States, the number of female offenders has skyrocketed. Between 1977 and 2007, the female prison population increased by 832 percent.<sup>57</sup> Among those numbers are hundreds of pregnant women. In 2004, the Bureau of Justice Statistics (BJS) released data revealing the number of female offenders pregnant at the time of their admittance. In state prisons, four percent of women incarcerated were pregnant and three percent in federal prisons.<sup>58</sup> In 1999, six percent of women in local jails were pregnant at the time of admittance.<sup>59</sup> Despite the high number of pregnant inmates, there are only seven states that offer prison nurseries: Illinois, Indiana, Ohio, Nebraska, New York, South Dakota, and Washington.<sup>60</sup> Community-based residential parenting programs are also offered to pregnant inmates in certain states. Instead of carrying out their sentence in prison, women in these programs are sent to centers out in the community with their infants to serve out the rest of their sentence. Alabama, California, Connecticut, Illinois, North Carolina, Massachusetts, and Vermont are some of the states that have these programs for incarcerated mothers.<sup>61</sup>

Overall, there are four general options for pregnant inmates in the United States. In various states, prison nurseries and community-based residential programs are available for inmates. Prison nurseries are strictly for mother and infant, while community-based alternatives are open for letting the prisoner's other children live there with the mother and the newborn. Pregnant inmates in the federal justice system are also offered community-based

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<sup>57</sup> Institute on Women & Criminal Justice. "Mothers, Infants and Imprisonment: A National Look at Prison Nurseries and Community-Based Alternatives." Women's Prison Association (2009)

<sup>58</sup> Laura M. Maruschak. "Medical Problems of Prisoners" Bureau of Justice Statistics (2008)

<sup>59</sup> Lawrence A. Greenfeld and Tracy A. Snell. "Women Offenders." Bureau of Justice Statistics (1999)

<sup>60</sup> Institute on Women & Criminal Justice. "Mothers, Infants and Imprisonment: A National Look at Prison Nurseries and Community-Based Alternatives." Women's Prison Association (2009); Dr. Mary Byrne. E-mail interview. 25.10.2011

<sup>61</sup> Institute on Women & Criminal Justice. "Mothers, Infants and Imprisonment: A National Look at Prison Nurseries and Community-Based Alternatives." Women's Prison Association (2009)

alternatives through the MINT program (Mothers and Infants Nurturing Together) as federal prisons do not have prison nurseries. Federal prisoners allocated a spot at one of the community-based centers are not allowed to bring their other children to the center. It is only for the mother and the infant, which distinguishes them from the community-based alternatives used by the states. Both the prison nurseries and community-based alternatives presented offer their participants various educational programs, but the primary courses are those related to child care and parenting. Inmates in states that do not have prison nurseries or community-based alternatives are separated from their babies right after giving birth. The fourth alternative is jail nurseries. This thesis could only find one jail that has a nursery, namely, Rikers Island in New York.

## **2.1 Prison Nursery Programs**

A prison nursery is a place within a prison where female inmates can bond with their newborn baby. How long a prisoner can stay in the nursery with the child depends on the state. For example, in Washington state, prisoners are allowed to keep their child with them for three years. In South Dakota, it is thirty days. To be considered for a spot in a prison nursery, there are several requirements that these women need to meet. These requirements vary from state to state, but one requirement seems to be consistent for all of the prisons: no violent offense on record. The following is a detailed overview of the seven prison nurseries, with numbers and requirements:

### **2.1.0 Illinois**

Illinois' Decatur Correctional Center offers pregnant prisoners the opportunity to keep their newborns with them in the Moms & Babies Program, which is contracted outside of the Department of Corrections.<sup>62</sup> The program opened on March 1, 2007 and can house 5 mothers

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<sup>62</sup> Joseph R. Carlson Jr. "Prison Nurseries: A Pathway to Crime-Free Futures" *Corrections Compendium* 34.1 (2009)

with their infants. The mothers can bond with their babies within the prison walls until the child reaches 2 years of age.<sup>63</sup> The setting resembles more of a daycare center than a prison. The women reside in single rooms with their newborns and have access to a large playroom and outdoor patios.<sup>64</sup> Women eager to join the program need to be non-violent offenders and have less than two years left on their sentence at the time of giving birth.<sup>65</sup> The recidivism rate for this prison nursery program is remarkable. Of the 27 women who have participated, from the program's start in 2007, none of them have been re-incarcerated.<sup>66</sup>

### **2.1.1 Indiana**

At the women's maximum security prison in Indianapolis, pregnant inmates have the opportunity to apply for a spot in the Wee Ones Nursery Program. Although the program is run within the Department of Corrections, it receives economic support through private grants.<sup>67</sup> The program has the capacity to hold 10 mothers and their babies, and the duration of the child's stay is up to 18 months.<sup>68</sup> Each prisoner gets a single room for herself and her baby.<sup>69</sup> The prison also allows inmates from the general prison population to live and work as nannies in the nursery. These nannies, along with the mothers, must have no prior record of child abuse or a violent crime in order to participate.<sup>70</sup> Furthermore, the pregnant women must meet other requirements to be able to get a spot in the nursery. The newborn must be born in

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<sup>63</sup> Joseph R. Carlson, Jr. "Prison Nurseries: A Pathway to Crime-Free Futures." *Corrections Compendium* 34.1 (2009)

<sup>64</sup> Huey Freeman. "Stopping the cycle: Mom and Babies program at Decatur Prison keeps women from coming back." *Herald-review.com* 10.04.2010. [http://www.herald-review.com/news/local/article\\_0bd8ba4c-bfe2-5185-ba90-5e5ec0e837f2.html](http://www.herald-review.com/news/local/article_0bd8ba4c-bfe2-5185-ba90-5e5ec0e837f2.html) 29.09.2011

<sup>65</sup> Institute on Women & Criminal Justice. "Mothers, Infants and Imprisonment: A National Look at Prison Nurseries and Community-Based Alternatives." Women's Prison Association (2009)

<sup>66</sup> Allison Petty. "Mom and Babies Program at Decatur Correctional Center Celebrates Successful Four Years." *Herald-review.com* 31.03.2011. [http://www.herald-review.com/news/local/article\\_eaae1c46-1ae4-5223-88b9-986abba95bd0.html](http://www.herald-review.com/news/local/article_eaae1c46-1ae4-5223-88b9-986abba95bd0.html) 29.09.2011

<sup>67</sup> Joseph R. Carlson, Jr. "Prison Nurseries: A Pathway to Crime-Free Futures." *Corrections Compendium* 34.1 (2009)

<sup>68</sup> Institute on Women & Criminal Justice. "Mothers, Infants and Imprisonment: A National Look at Prison Nurseries and Community-Based Alternatives." Women's Prison Association (2009)

<sup>69</sup> *Babies Behind Bars*. TLC, S01E02 (2011)

<sup>70</sup> Institute on Women & Criminal Justice. "Mothers, Infants and Imprisonment: A National Look at Prison Nurseries and Community-Based Alternatives." Women's Prison Association (2009)

custody, and the mothers must have 18 months or less left on their sentence.<sup>71</sup> At the Wee Ones Nursery, the baby must also be born healthy in order to enter the nursery program.<sup>72</sup> The program provides new mothers with clothes, bottles, and diapers for their newborn babies.<sup>73</sup>

### **2.1.2 Ohio**

“Achieving Baby Care Success Program” is the name of the nursery located in the Ohio Reformatory for Women in Marysville. It started in 2001 and can accommodate 20 mothers and up to 21 infants until they reach 18 months.<sup>74</sup> Offenders participating in this program must have no violent crime on record, their due date must be while they are in state custody, and they must be in good physical and mental condition, as well as maintain good behavior while imprisoned. It is also mandatory for participants to take part in family training courses.<sup>75</sup> Statistics show that an average of 25 women participate in the program on a yearly basis. Out of the 151 women who have entered the program since 2008, 123 of them have completed it. In 2008, the recidivism rate for all female prisoners in Ohio was around 30 percent.<sup>76</sup> As of 2011, there are 8 babies living in the nursery.<sup>77</sup>

### **2.1.3 Nebraska**

The nursery at Nebraska Correctional Center for Women in York opened in 1994. It has room for 15 mothers and their babies until the child reaches 18 months. However, the length of stay may be extended if staff members allow it.<sup>78</sup> Mothers who want to participate in the program must have no violent offense on record, and the child must be born in state custody. The

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<sup>71</sup> Institute on Women & Criminal Justice. “Mothers, Infants and Imprisonment: A National Look at Prison Nurseries and Community-Based Alternatives.” Women’s Prison Association (2009)

<sup>72</sup> *Babies Behind Bars*. TLC, S01E01 (2011)

<sup>73</sup> *Babies Behind Bars*. TLC, S01E01 (2011)

<sup>74</sup> Institute on Women & Criminal Justice. “Mothers, Infants and Imprisonment: A National Look at Prison Nurseries and Community-Based Alternatives.” Women’s Prison Association (2009)

<sup>75</sup> Institute on Women & Criminal Justice. “Mothers, Infants and Imprisonment: A National Look at Prison Nurseries and Community-Based Alternatives.” Women’s Prison Association (2009)

<sup>76</sup> Joseph R. Carlson, Jr. “Prison Nurseries: A Pathway to Crime-Free Futures.” *Corrections Compendium* 34.1 (2009)

<sup>77</sup> Ohio Department of Corrections: Ohio Reformatory for Women. <http://www.drc.ohio.gov/Public/orw.htm> 11.10.2011

<sup>78</sup> Institute on Women & Criminal Justice. “Mothers, Infants and Imprisonment: A National Look at Prison Nurseries and Community-Based Alternatives.” Women’s Prison Association (2009)

mother's mental health should also be in good condition. A screening committee will carefully determine whether or not an inmate is eligible or not. Furthermore, the women need to have 18 months or less left on their sentence when they apply for a spot in the nursery program.<sup>79</sup> The nursery program in Nebraska has followed the model set forward by the prison nursery at Bedford Hills Correctional Facility in New York. In Nebraska, however, the nursery is under the control of the State Department of Correctional Services and not contracted out as it is in New York.<sup>80</sup> Over a 10-year period, the program has shown to have a 33.2 percent decrease in recidivism for the women who have entered the nursery program compared to other pregnant inmates who have not taken part in the program. Numbers show that 16.8 percent was the recidivism rate for prison nursery participants.<sup>81</sup>

#### **2.1.4 New York**

The longest running prison nursery in the United States is the Bedford Hills Correctional Facility in New York. It is a maximum-security institution that has been in operation since 1901. The prison nursery can house 29 mothers and their infants until the child reaches 18 months.<sup>82</sup> For the child to reside in prison with the mother for the entire 18 months, the women must have that amount of time or less left on their sentence when the child is born. For women with longer sentences, the child can stay for 12 months.<sup>83</sup> Taconic Correctional Facility is another prison that offers a nursery for inmates. This medium-security institution is not far from the Bedford Hills Correctional Facility and is run by the same director through a

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<sup>79</sup> Institute on Women & Criminal Justice. "Mothers, Infants and Imprisonment: A National Look at Prison Nurseries and Community-Based Alternatives." Women's Prison Association (2009)

<sup>80</sup> Joseph R. Carlson, Jr. "Prison Nurseries: A Pathway to Crime-Free Futures." *Corrections Compendium* 34.1 (2009)

<sup>81</sup> Joseph R. Carlson, Jr. "Prison Nurseries: A Pathway to Crime-Free Futures." *Corrections Compendium* 34.1 (2009)

<sup>82</sup> Institute on Women & Criminal Justice. "Mothers, Infants and Imprisonment: A National Look at Prison Nurseries and Community-Based Alternatives." Women's Prison Association (2009)

<sup>83</sup> Institute on Women & Criminal Justice. "Mothers, Infants and Imprisonment: A National Look at Prison Nurseries and Community-Based Alternatives." Women's Prison Association (2009)

private agency.<sup>84</sup> The Taconic prison nursery opened in 1990 and can house 15 mothers and their infants from 12 to 18 months. Both nurseries set strict requirements for women to be eligible. Criminal records, incarceration history, family background, etc., are thoroughly examined before women can enter the program. Criminal offenses such as child abuse and/or neglect and arson will disqualify any applicant. Furthermore, the child must be born in custody for the mother to be able to participate.<sup>85</sup> A three-year survey conducted in 1997 by the New York State Department of Correctional Services showed that for the three years following release, the recidivism rate for women in prison nurseries was much lower compared to those who had not participated. The study also showed that “for the first year after release, 5 percent of program participants were returned compared with 8 percent of all female inmates released. After the second year, the recidivism rate was 7 percent compared with 19 percent, and in the third year it was 13 percent compared with 26 percent.”<sup>86</sup>

### **2.1.5 South Dakota**

The South Dakota Women’s Prison is located in Pierre. Its prison nursery program started in 1998 and is operated by the Department of Corrections. The program allows women to keep their infants with them for 30 days, and there is no limit as to how many women can participate or the length of their sentence. General requirements apply, however. Women cannot be violent offenders and they must have given birth while in custody.<sup>87</sup> Furthermore, unless the mother is eligible for release after the 30 days, the child is sent to family or friends or foster care.<sup>88</sup>

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<sup>84</sup> Joseph R. Carlson, Jr. “Prison Nurseries: A Pathway to Crime-Free Futures.” *Corrections Compendium* 34.1 (2009)

<sup>85</sup> Institute on Women & Criminal Justice. “Mothers, Infants and Imprisonment: A National Look at Prison Nurseries and Community-Based Alternatives.” Women’s Prison Association (2009)

<sup>86</sup> Joseph R. Carlson, Jr. “Prison Nurseries: A Pathway to Crime-Free Futures.” *Corrections Compendium* 34.1 (2009) p.18

<sup>87</sup> Institute on Women & Criminal Justice. “Mothers, Infants and Imprisonment: A National Look at Prison Nurseries and Community-Based Alternatives.” Women’s Prison Association (2009)

<sup>88</sup> Joseph R. Carlson, Jr. “Prison Nurseries: A Pathway to Crime-Free Futures.” *Corrections Compendium* 34.1 (2009)

The program in South Dakota stands out from the other prison nurseries in that pregnant inmates must pay up to \$288 in order to keep their baby with them for the 30 days allocated. Usually, family or friends help the inmate out with the money. There is also a church group that works with the prison to help out incarcerated mothers, which can provide the mothers with the money they need.<sup>89</sup> The women are financially responsible for their babies, which means that they have to pay, for example, medical bills.<sup>90</sup> The women live with their newborns in their cells in an area away from the general population.<sup>91</sup> Moreover, the new mothers may choose a “nanny” from the general prison population to assist her with her baby. To become a “certified” nanny in the prison, inmates have to participate in child-rearing classes.<sup>92</sup> Healthcare workers are also present in the prison to assist the new mothers.<sup>93</sup> Since 2008, 5 to 8 women have given birth each year while incarcerated at the facility, and the majority of those are teenagers. Numbers show that from March 2001 till March 2008, only 12 inmates have kept their babies with them in the prison.<sup>94</sup>

### **2.1.6 Washington**

Washington is the only state that allows women to keep their infants with them for 3 years. The prison nursery program at Washington Correctional Center for Women in Gig Harbor started in 1999 and has beds for 20 mothers and their babies. Women who wish to participate in the “Residential Parenting Program” must have 3 years or less left on their sentence when giving birth, they have to be classified as minimum custody (present least risk to public

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<sup>89</sup> Joseph R. Carlson, Jr. “Prison Nurseries: A Pathway to Crime-Free Futures.” *Corrections Compendium* 34.1 (2009)

<sup>90</sup> Institute on Women & Criminal Justice. “Mothers, Infants and Imprisonment: A National Look at Prison Nurseries and Community-Based Alternatives.” Women’s Prison Association (2009)

<sup>91</sup> South Dakota Department of Corrections: South Dakota Women’s Prison  
<http://doc.sd.gov/adult/facilities/wp/mip.aspx> 11.10.2011

<sup>92</sup> Institute on Women & Criminal Justice. “Mothers, Infants and Imprisonment: A National Look at Prison Nurseries and Community-Based Alternatives.” Women’s Prison Association (2009)

<sup>93</sup> Joseph R. Carlson, Jr. “Prison Nurseries: A Pathway to Crime-Free Futures.” *Corrections Compendium* 34.1 (2009)

<sup>94</sup> Joseph R. Carlson, Jr. “Prison Nurseries: A Pathway to Crime-Free Futures.” *Corrections Compendium* 34.1 (2009)



safety) and have no violent-offense on record.<sup>95</sup> From 1999 to 2008, a total of 159 women participated in the program with a 17 percent recidivism rate. “This includes a total of 19 women who have returned only once and eight who have returned two or more times. The rate is lower than the 38.9 percent readmission rate for all female inmates indicated on the DOC’s Web site.”<sup>96</sup> Fifteen women went through the program in the spring of 2008, and the yearly participation rate is about 26 women.<sup>97</sup>

## **2.2 Community-Based Residential Parenting Programs**

Instead of incarceration, convicted felons are sent to centers out in the community where they can serve the remainder of their time with their child(ren). There are several requirements that these women must meet in order to participate, but it varies from center to center. Here are some of the community-based programs offered to pregnant inmates in the United States:

### **2.2.0 Alabama**

The Lovelady Center in Birmingham opened in 1997 and since 2005 has expanded its program. The center “serves as an alternative to incarceration, as a residence for those on parole or probation and as a pre-release program.”<sup>98</sup> In 2009 there were 300 women and 100 children residing at the center. There are no restrictions when it comes to the children’s age, and the women take part in a 6-12 month program of rehabilitation, education and child care courses.<sup>99</sup> These tools will help reduce the relapse rate in the state.<sup>100</sup>

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<sup>95</sup> Institute on Women & Criminal Justice. “Mothers, Infants and Imprisonment: A National Look at Prison Nurseries and Community-Based Alternatives.” Women’s Prison Association (2009)

<sup>96</sup> Joseph R. Carlson, Jr. “Prison Nurseries: A Pathway to Crime-Free Futures.” *Corrections Compendium* 34.1 (2009) p. 18

<sup>97</sup> Joseph R. Carlson, Jr. “Prison Nurseries: A Pathway to Crime-Free Futures.” *Corrections Compendium* 34.1 (2009)

<sup>98</sup> Institute on Women & Criminal Justice. “Mothers, Infants and Imprisonment: A National Look at Prison Nurseries and Community-Based Alternatives.” Women’s Prison Association (2009) p.30

<sup>99</sup> Institute on Women & Criminal Justice. “Mothers, Infants and Imprisonment: A National Look at Prison Nurseries and Community-Based Alternatives.” Women’s Prison Association (2009); The Lovelady Center <http://www.loveladycenter.org/> 03.10.2011

<sup>100</sup> <http://www.loveladycenter.org/> 03.10.2011

### 2.2.1 California

There are three Community Prison Mother Programs in California, all of which opened in 1980. Project Pride in Oakland and Turning Point in Bakersfield can each house up to 24 women, and Pomona in Los Angeles can hold 23 women. All programs allow children to stay at the center until their 6th birthday.<sup>101</sup> In order for women to participate in these programs, they must first be an inmate at one of California's state prisons. From that correctional facility, the inmate may apply for one of the community programs. Other requirements dictate that the inmate must be pregnant and/or the primary caregiver of a child under age six, have no violent offense on record, and have 90 days or more left to serve. The women are allowed to bring a maximum of two children with them to the program.<sup>102</sup> The recidivism rate for women completing the program was 22 percent in 2006 to a 46 percent rate for non-participants.<sup>103</sup>

There are also three Family Foundations Programs in the state. Santa Fe Springs opened in 1999, San Diego started in 2000, and the third, in Fresno, opened its doors in 2007. They can each house up to 35 women and 40 children up to 6 years of age.<sup>104</sup> Women with drug-related pasts and non-violent offenses have the opportunity to serve out their sentences at one of these programs. Instead of being sentenced to prison, these women are sent directly to a family foundations program. Judges can only send pregnant women and/or women with children under the age of six who have less than 36 months left to serve. They will participate

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<sup>101</sup> Institute on Women & Criminal Justice. "Mothers, Infants and Imprisonment: A National Look at Prison Nurseries and Community-Based Alternatives." Women's Prison Association (2009)

<sup>102</sup> Institute on Women & Criminal Justice. "Mothers, Infants and Imprisonment: A National Look at Prison Nurseries and Community-Based Alternatives." Women's Prison Association (2009)

<sup>103</sup> Joseph R. Carlson, Jr. "Prison Nurseries: A Pathway to Crime-Free Futures." *Corrections Compendium* 34.1 (2009)

<sup>104</sup> Institute on Women & Criminal Justice. "Mothers, Infants and Imprisonment: A National Look at Prison Nurseries and Community-Based Alternatives." Women's Prison Association (2009)

in a strict and structured treatment program for 12 months and then spend 12 months receiving aftercare and transition guidance before being released.<sup>105</sup>

The community-based programs were in danger of being closed down, however, as early as mid-year 2012. The reason for this is that California struggles with an overcrowded prison system and was ordered by the California Supreme Court to cut its inmate population to 137.5 percent of capacity by May 2013.<sup>106</sup> As a result, Assembly Bill 109 was signed into law on March 17, 2011.<sup>107</sup> Currently the prison mother programs are authorized only for non-violent, non-serious, non-sex offenders, but those inmates are going to be in the county jails from now on as a result of the bill, which makes the counties responsible for this population. Thus, these women are no longer eligible to participate. Senator Carol Liu's office is working to expand eligibility for these programs so that more serious offenders may participate in order to keep the programs open.<sup>108</sup> It is also interesting to mention that in 2006, data showed that more than 300 babies were expected to be born to inmates in California prisons.<sup>109</sup> Despite this high number, California never opened its planned prison nursery at California Institution for Women in Corona in 2009.<sup>110</sup>

### **2.2.2 Connecticut**

Norwalk Economic Opportunity Now (NEON) is a women's and children's halfway house in Waterbury. It opened in 1988 and can house 19 women and 12 children until their 10th birthday.<sup>111</sup> NEON is a place where incarcerated mothers can spend time with their children as they finish their prison sentence. Pregnant inmates are sent to the program from York

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<sup>105</sup> Institute on Women & Criminal Justice. "Mothers, Infants and Imprisonment: A National Look at Prison Nurseries and Community-Based Alternatives." Women's Prison Association (2009)

<sup>106</sup> Adam Liptak. "Justices, 5-4, Tell California to Cut Prison Population." The New York Times, 23.05.2011 [http://www.nytimes.com/2011/05/24/us/24scotus.html?\\_r=1&pagewanted=all](http://www.nytimes.com/2011/05/24/us/24scotus.html?_r=1&pagewanted=all) 19.10.2011

<sup>107</sup> Assembly Bill No. 109. [http://www.leginfo.ca.gov/pub/11-12/bill/asm/ab\\_0101-0150/ab\\_109\\_bill\\_20110329\\_enrolled.pdf](http://www.leginfo.ca.gov/pub/11-12/bill/asm/ab_0101-0150/ab_109_bill_20110329_enrolled.pdf) 19.10.2011

<sup>108</sup> Andi Lane. E-mail interview. 17.10.2011

<sup>109</sup> Joseph R. Carlson, Jr. "Prison Nurseries: A Pathway to Crime-Free Futures." *Corrections Compendium* 34.1 (2009)

<sup>110</sup> Karen Shain. E-mail interview. 12.10.2011

<sup>111</sup> Institute on Women & Criminal Justice. "Mothers, Infants and Imprisonment: A National Look at Prison Nurseries and Community-Based Alternatives." Women's Prison Association (2009)

Correctional Institution. Participants can leave the facility for work or to attend parenting classes. NEON also offers some women, who are not ready to go back to society, the opportunity to stay longer at the halfway house.<sup>112</sup>

### **2.2.3 Illinois**

The Sheriff's MOM's Program in Chicago opened in 1999 and is a "therapeutic community drug treatment program for pregnant female pre-trial substance abuse/mental health detainees."<sup>113</sup> The facility has 24 beds available to pregnant women and new mothers with their children. The duration of a child's stay is up to pre-school age.<sup>114</sup> Women who wish to participate must be non-violent offenders, capable of completing programs, and have a bond that is no more than \$300,000. Women can also be put in the program, willingly or not, by a judge.<sup>115</sup>

### **2.2.4 North Carolina**

The Summit House opened in 1987 and can house 26 families with children up to 7 years through their 3 facilities in Greensboro, Charlotte, and Raleigh. Pregnant women or women with small children (which they have custody of) are usually sentenced to 12 to 24 months at this program. Only non-violent women over the age of 17 are eligible to be sent to the Summit House.<sup>116</sup>

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<sup>112</sup> Institute on Women & Criminal Justice. "Mothers, Infants and Imprisonment: A National Look at Prison Nurseries and Community-Based Alternatives." Women's Prison Association (2009)

<sup>113</sup> Institute on Women & Criminal Justice. "Mothers, Infants and Imprisonment: A National Look at Prison Nurseries and Community-Based Alternatives." Women's Prison Association (2009) p.31

<sup>114</sup> Cook County Sheriff's Office: MOM's Program

[http://cookcountysheriff.org/womens\\_justice\\_services/wjs\\_momsprogram.html](http://cookcountysheriff.org/womens_justice_services/wjs_momsprogram.html) 06.10.2011

<sup>115</sup> Institute on Women & Criminal Justice. "Mothers, Infants and Imprisonment: A National Look at Prison Nurseries and Community-Based Alternatives." Women's Prison Association (2009)

<sup>116</sup> Institute on Women & Criminal Justice. "Mothers, Infants and Imprisonment: A National Look at Prison Nurseries and Community-Based Alternatives." Women's Prison Association (2009)

### 2.2.5 Massachusetts

Spectrum Women and Children's Program in Westborough started in 1989 and had the capacity to house 13 women and up to 11 or 12 children up to 2 years of age.<sup>117</sup> In December of 2010, however, Spectrum moved in to a new, \$2.5 million, 18,000-square-foot Women & Children's Center. It is a state-of-the-art facility that expanded the program's capacity to up to 26 women and 13 children. Children can now live at the center up to the age of five. Although the new building can house up to 26 women, Spectrum's license from the Massachusetts Department of Corrections is only for 13 women.<sup>118</sup> This means that only 13 women can participate in the program (as of 2011). Spectrum will be able to house 26 women when the Massachusetts Department of Correction increases funding for the program (which is unlikely in this economy). The program allows women who are on parole or probation and those who are incarcerated to apply. The requirements for participating in the program include having no violent offense on record, having a substance abuse problem, and having no history of serious mental disorders. There are no requirements that the child must be born in custody for the women to join the program.<sup>119</sup> There are currently 13 women and 10 children in the program.<sup>120</sup>

The Massachusetts Department of Corrections needs to approve every trip made by clients outside the center. The women are not allowed to take their child to the doctor alone. All trips outside of the center need to be under the supervision of a staff person at all times. There are no correctional officers or security guards at the center. The doors are locked from the outside, not the inside. Development Associate, Andrew Strecker, says "the concern is definitely greater that someone who shouldn't be at the center (a boyfriend for example) gets

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<sup>117</sup> Institute on Women & Criminal Justice. "Mothers, Infants and Imprisonment: A National Look at Prison Nurseries and Community-Based Alternatives." Women's Prison Association (2009)

<sup>118</sup> Andrew Strecker. E-mail interview. 25.10.2011

<sup>119</sup> Institute on Women & Criminal Justice. "Mothers, Infants and Imprisonment: A National Look at Prison Nurseries and Community-Based Alternatives." Women's Prison Association (2009)

<sup>120</sup> Andrew Strecker. E-mail interview. 25.10.2011

access, as opposed to clients leaving.”<sup>121</sup> The women at the center want to be there, and thus the risk of escape is minimal.

### **2.2.6 Vermont**

The Lund Family Center in Burlington started in the late 1800s, but it was not until the early 2000s that the center started to collaborate with the Department of Corrections. Even though the center is primarily a drug and mental health treatment facility for women outside of the criminal justice system, the program allows 21 mothers and their children up to 5 years of age to stay at the facility as an alternative to prison. Only pregnant women and mothers with small children (which they have custody of) with no violent offense on record are permitted into the program. By the time the child turns 5 years old, the mother should have finished her sentence.<sup>122</sup>

## **2.3 Jails with Nursery Programs**

Women who are confined in jails are usually serving a shorter sentence than those in prison, and/or they are awaiting trial. Jails are operated on a local level, either county or city, whereas prisons are administered by the state or the federal government. Rikers Island in New York is the only jail in the United States that offers pregnant inmates the opportunity to keep their infants with them while incarcerated. In many cases, the mothers and their infants will be transferred to either Bedford Hills or Taconic Correctional Facility once their sentence is determined. The Rose M. Singer Center started in 1989 and has the capacity to hold 15 mothers and 16 infants up to 12 months. Women eager to participate in the program must be six-months pregnant and undergo a medical and mental health examination, in addition to an

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<sup>121</sup> Andrew Strecker. E-mail interview. 01.11.2012

<sup>122</sup> Institute on Women & Criminal Justice. “Mothers, Infants and Imprisonment: A National Look at Prison Nurseries and Community-Based Alternatives.” Women’s Prison Association (2009)

investigation conducted by an Administration for Children Services. The crime the mother has been convicted of is emphasized when she is being considered for the nursery.<sup>123</sup>

## **2.4 Federal Bureau of Prisons Residential Parenting Programs**

Mothers and Infants Nurturing Together (MINT) is the nursery program offered by the Federal Bureau of Prisons (BOP). The MINT program offers participants an array of courses that are specifically geared toward their needs. For example, “pre-natal and post-natal programs such as childbirth, parenting, and coping skills classes.”<sup>124</sup> There are also MINT facilities that offer “chemical dependency treatment, physical and sexual abuse counseling, budgeting classes, and vocational and educational programs.”<sup>125</sup> The programs are all meant to help these new mothers adapt as smoothly as possible back into society and to reduce the recidivism rate. To participate in the MINT program, the women must be low-risk prisoners. This excludes “inmates with repeated, serious institution rule violations, a history of repetitive violence, escape, or association with violent or terrorist organizations.”<sup>126</sup> Women with a minor violent offense on record (no murder, rape or aggravated assault) are still to be considered for the MINT program. It is the prisoner’s unit team, which is the staff directly responsible for the inmate, that decides if she is to be referred or not.<sup>127</sup>

Eligible pregnant inmates are placed at a community center 2 months prior to giving birth and are allowed to stay there for 3 months.<sup>128</sup> After the bonding time of 3 months, the mother must return to prison to complete her sentence. However, the length of stay can vary

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<sup>123</sup> Institute on Women & Criminal Justice. “Mothers, Infants and Imprisonment: A National Look at Prison Nurseries and Community-Based Alternatives.” Women’s Prison Association (2009)

<sup>124</sup> Federal Bureau of Prisons: Female Offender Programs. [http://www.bop.gov/inmate\\_programs/female.jsp](http://www.bop.gov/inmate_programs/female.jsp) 10.11.2011

<sup>125</sup> Federal Bureau of Prisons: Female Offender Programs. [http://www.bop.gov/inmate\\_programs/female.jsp](http://www.bop.gov/inmate_programs/female.jsp) 10.11.2011

<sup>126</sup> U.S. Department of Justice: Federal Bureau of Prisons: Community Corrections Center [http://www.bop.gov/policy/progstat/7310\\_004.pdf](http://www.bop.gov/policy/progstat/7310_004.pdf) 10.11.2011 p.11

<sup>127</sup> Federal Bureau of Prisons: Female Offender Programs. [http://www.bop.gov/inmate\\_programs/female.jsp](http://www.bop.gov/inmate_programs/female.jsp) 10.11.2011

<sup>128</sup> U.S. Department of Justice: Federal Bureau of Prisons: Community Corrections Center [http://www.bop.gov/policy/progstat/7310\\_004.pdf](http://www.bop.gov/policy/progstat/7310_004.pdf) 10.11.2011

from center to center, and extended stays must be approved by the Chief Executive Officer (CEO). Postnatal care is paid for by the Bureau of Prisons (BOP) for the first 3 days after birth (7 days after a Cesarean section). Before the birth, the mother is also to find a guardian for her baby. This person or agency is to be responsible for the child's medical expenses while in their custody by signing a Statement of Responsibility for medical care costs.<sup>129</sup> If the inmate or the new guardian refuses to pay for the medical bills while the mother resides at a MINT facility, the inmate may be sent back to prison and thus no longer be eligible to participate in the MINT program. Furthermore, prisoners who get pregnant while on furlough or have more than 5 years left to serve on their sentence and/or plan to give their baby up for adoption are not eligible to take part in the MINT program.<sup>130</sup> There are several facilities around the United States that accommodate the Bureau of Prisons (BOP) and its pregnant prisoners.

#### **2.4.0 Connecticut**

Most women at the Hartford House have been transferred there from the Federal Correctional Institution Danbury in Connecticut. To participate, most of the women must have 2 years or less left on their sentence. The facility has room for only 5 mothers with their infants for 3 months.<sup>131</sup>

#### **2.4.1 Florida**

The MINT program in Tallahassee started in 1998 and can house 10 mothers and their infants for up to one year. The 2009 survey conducted by the Women's Prison Association (WPA) reports that pregnant inmates in the BOP system can participate in the program in Florida

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<sup>129</sup> U.S. Department of Justice: Federal Bureau of Prisons: Community Corrections Center [http://www.bop.gov/policy/progstat/7310\\_004.pdf](http://www.bop.gov/policy/progstat/7310_004.pdf) 10.11.2011

<sup>130</sup> U.S. Department of Justice: Federal Bureau of Prisons: Community Corrections Center [http://www.bop.gov/policy/progstat/7310\\_004.pdf](http://www.bop.gov/policy/progstat/7310_004.pdf) 10.11.2011

<sup>131</sup> Institute on Women & Criminal Justice. "Mothers, Infants and Imprisonment: A National Look at Prison Nurseries and Community-Based Alternatives." Women's Prison Association (2009)



regardless of where in the country they are serving their time. The WPA also writes that the length of the women's sentence has no effect on their eligibility to participate.<sup>132</sup>

### **2.4.2 Illinois**

The MINT program at Triangle Center in Springfield, Illinois started in the mid-late 1990s and can house 4 mothers and their infants until the child reaches 3 months old. Federal prisoners from all over the country can come to the Triangle Center. Expectant mothers are given 3 months of prenatal care and then 3 months with the baby after birth. The mothers are allowed to leave the center, with supervision, to participate in various educational programs out in the community that the Triangle Center cooperates with.<sup>133</sup>

### **2.4.3 Texas**

Volunteers of America started the first MINT program in Fort Worth in the early 1980s. The program allows 20 women to stay for 3 months with their newborn babies. All federal prisons in the United States can send their pregnant inmates to this program, but most come from the Federal Medical Center (FMC) Carswell, which is situated in Fort Worth. All pregnant women in the federal corrections system can participate regardless of the length of their sentence.<sup>134</sup>

### **2.4.4 West Virginia**

At Greenbrier Birthing Center in Hillsboro, 20 women and their infants can stay for up to 18 months. The facility opened in 1994 and is open to all federal inmates in the country. The

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<sup>132</sup> Institute on Women & Criminal Justice. "Mothers, Infants and Imprisonment: A National Look at Prison Nurseries and Community-Based Alternatives." Women's Prison Association (2009)

<sup>133</sup> Institute on Women & Criminal Justice. "Mothers, Infants and Imprisonment: A National Look at Prison Nurseries and Community-Based Alternatives." Women's Prison Association (2009)

<sup>134</sup> Institute on Women & Criminal Justice. "Mothers, Infants and Imprisonment: A National Look at Prison Nurseries and Community-Based Alternatives." Women's Prison Association. May 2009

women cannot have more than 15 years left to serve in prison in order to participate. The Greenbrier Birthing Center is the biggest MINT program in the United States.<sup>135</sup>

## 2.5 Evaluation of Prison Nurseries

Only two states have released data on their prison nurseries: Nebraska and New York. To measure the satisfaction level among participants in the program, Nebraska conducted surveys in 1996, 2001, and 2005.<sup>136</sup> The 2005 survey showed that 95 percent of the women were pleased with the program. The nursery had strengthened their bond with their babies, and the parenting classes offered in the program had helped them become better mothers. 15 percent responded that the program had helped them prepare better for life after incarceration. Moreover, the women believed that all prisons in the country should have a nursery.<sup>137</sup> All in all, the Nebraska prison nursery has received positive feedback since its start in 1994. Another primary reason for that is the study from 1996 to 2005 that showed a lower recidivism rate of 16.8 percent for those women who participated in the program compared to the 50 percent who had to give up their babies.<sup>138</sup>

The New York State Department of Correctional Services (DOCS) published a three-year follow-up study in 2002 of the 179 mothers who participated in the nursery programs at Bedford Hills Correctional Facility and Taconic Correctional Facility in 1997 and 1998. One hundred and sixty-two of the mother/child pairs had left the prison nursery in 2002, and 37 responded to the survey that sought to get an overview of the living situation of the children

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<sup>135</sup> Institute on Women & Criminal Justice. "Mothers, Infants and Imprisonment: A National Look at Prison Nurseries and Community-Based Alternatives." Women's Prison Association. May 2009

<sup>136</sup> Joseph R. Carlson, Jr. "Prison Nurseries: A Pathway to Crime-Free Futures" *Corrections Compendium* 34.1 (2009)

<sup>137</sup> Joseph R. Carlson, Jr. "Prison Nurseries: A Pathway to Crime-Free Futures" *Corrections Compendium* 34.1 (2009)

<sup>138</sup> Joseph R. Carlson, Jr. "Prison Nurseries: A Pathway to Crime-Free Futures" *Corrections Compendium* 34.1 (2009)

born in custody.<sup>139</sup> Sixty-two percent of the children were living with their mothers, thirty percent lived with their grandmother or in some cases another relative, and a small number of the children were found with their father or in foster care.<sup>140</sup> The report also revealed a lower recidivism rate for the nursery participants compared to the general female prison population in the state. In 2002, numbers showed that eighty-two of the mothers who participated had been out of prison for more than 3 years. Among those women, 13.4 percent went back to prison, compared to 25.9 percent of all women returning to custody.<sup>141</sup>

School of Nursing Professor Mary Byrne, at Columbia University, is currently conducting a survey called *Maternal and Child Outcomes of a Prison Nursery Program* (2003-2012). The survey's goal is to measure the effect a prison nursery setting has on a child. Byrne looks at the infant's attachment to his or her mother compared to children out in the community. Collecting data from the prison nurseries at Bedford Hills Correctional Facility and Taconic Correctional Facility, respectively, the aim of the research is to:

"Identify and explore the changes in maternal-infant attachment and infant/toddler development as they occur during incarceration in a prison nursery and during the years following reentry of the infant with and without the mother. The overall goal is to enrich the knowledge base from which prison and community based parenting programs can be developed and tested, and to improve the lives of incarcerated women and their children during co-detention and following release."<sup>142</sup>

To measure the child's development, Dr. Byrne and her team look at cognitive, motor, and behavioral development using the Bayley Scale. This method is recognized internationally and has been used for many years to evaluate a child's development skills.<sup>143</sup> At Bedford

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<sup>139</sup> State of New York Department of Correctional Services. *Profile and Three Year Follow-up on Bedford Hills and Taconic Nursery Program Participants: 1997 & 1998*. Division of Program Planning, Research and Evaluation (2002)

<sup>140</sup> State of New York Department of Correctional Services. *Profile and Three Year Follow-up on Bedford Hills and Taconic Nursery Program Participants: 1997 & 1998*. Division of Program Planning, Research and Evaluation (2002)

<sup>141</sup> State of New York Department of Correctional Services. *Profile and Three Year Follow-up on Bedford Hills and Taconic Nursery Program Participants: 1997 & 1998*. Division of Program Planning, Research and Evaluation (2002)

<sup>142</sup> Dr. Mary Byrne-Prison Nursery Research  
[http://www.cumc.columbia.edu/dept/nursing/byrne/prison\\_nursery.html](http://www.cumc.columbia.edu/dept/nursing/byrne/prison_nursery.html) 19.10.2011

<sup>143</sup> Susan Conova. "Do Babies Belong in Prison?" Columbia University Medical Center INVIVO 5.1 (2006)  
[http://www.cumc.columbia.edu/publications/in-vivo/vol4\\_6\\_feb-mar\\_06/imprisoned\\_mother.html](http://www.cumc.columbia.edu/publications/in-vivo/vol4_6_feb-mar_06/imprisoned_mother.html) 11.11.2011

Hills, the children are monitored by evaluating the children's interactions through play. After 45 minutes of observation, Dr. Byrne's team continues with "a laboratory assessment of mother-child attachment, several questionnaires, and an interview with the mother."<sup>144</sup> Dr. Byrne explains that "the babies in the prison nursery program are developmentally the same as other babies."<sup>145</sup> Byrne's continues by saying that babies do belong in prison with their mothers and raises the question of "who else is going to take care of them?" In some cases the baby lives with several relatives and/or foster care families without forming any secure bonds. Dr. Byrne believes that may be much more harmful to the child's health than staying with the mother in a prison setting. Furthermore, studies show that children with incarcerated parents are more likely than the general population to end up in the correctional system. To be separated from your parent(s) leaves many children vulnerable and insecure. This can in turn lead to learning disabilities, difficulties of adapting into society, and emotional and behavioral disorders, such as aggressiveness and indifference, which in the end may lead to poor parenting when they grow up.<sup>146</sup>

Dr. Byrne has also looked at the recidivism rate for the women participating in her study. All of the mothers have stayed out of prison after their release, and only 5 percent have returned due to violations of their parole. Dr. Byrne says that "recidivism is obviously an important factor in the child's well-being, because if the mother returns to prison, her baby is separated from her again."<sup>147</sup> The nurseries have thus a positive effect on the mothers too. The ongoing research project has of 2010 found that "mothers in a prison nursery setting can raise infants who are securely attached to them at rates comparable to healthy community children, even when the mother's own internal attachment representation

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<sup>144</sup> Susan Conova. "Do Babies Belong in Prison?" Columbia University Medical Center INVIVO 5.1 (2006) [http://www.cumc.columbia.edu/publications/in-vivo/vol4\\_6\\_feb-mar\\_06/imprisoned\\_mother.html](http://www.cumc.columbia.edu/publications/in-vivo/vol4_6_feb-mar_06/imprisoned_mother.html) 11.11.2011

<sup>145</sup> Susan Conova. "Do Babies Belong in Prison?" Columbia University Medical Center INVIVO 5.1 (2006) [http://www.cumc.columbia.edu/publications/in-vivo/vol4\\_6\\_feb-mar\\_06/imprisoned\\_mother.html](http://www.cumc.columbia.edu/publications/in-vivo/vol4_6_feb-mar_06/imprisoned_mother.html) 11.11.2011

<sup>146</sup> Susan Conova. "Do Babies Belong in Prison?" Columbia University Medical Center INVIVO 5.1 (2006) [http://www.cumc.columbia.edu/publications/in-vivo/vol4\\_6\\_feb-mar\\_06/imprisoned\\_mother.html](http://www.cumc.columbia.edu/publications/in-vivo/vol4_6_feb-mar_06/imprisoned_mother.html) 11.11.2011

<sup>147</sup> Susan Conova. "Do Babies Belong in Prison?" Columbia University Medical Center INVIVO 5.1 (2006) [http://www.cumc.columbia.edu/publications/in-vivo/vol4\\_6\\_feb-mar\\_06/imprisoned\\_mother.html](http://www.cumc.columbia.edu/publications/in-vivo/vol4_6_feb-mar_06/imprisoned_mother.html) 11.11.2011

has been categorized as insecure.”<sup>148</sup> Dr. Byrne makes this claim “in spite of the fact that it is highly improbable the mothers would be able to transmit secure attachment, since they are predominantly insecure in their own internalized attachment—so theoretically should raise insecure children. We attribute the shift to our intervention. It takes a powerful intervention to make such a change.”<sup>149</sup> Many women in prison have experienced being abandoned or separated from their mothers in their childhood, which in turn leaves them insecure when it comes to attachment to their own child and of the future of their child. The prison nursery however provides a safe and secure environment where these mothers can get help to deal with their insecurities. This study proves that prison nurseries create a strong bond between mother and child, and that it is a measure more prisons in the United States should follow.

On another note, Dr. Byrne expresses concern when it comes to the child’s transition from prison to home. For some women, a stable home awaits her and the baby, but for others, finding a safe and affordable home can be difficult, thus forcing the baby to move from home to home. Dr. Byrne says that “once they leave, it’s up to them to find their own housing, pay for food, and apply for health insurance. After the prison nursery research is done, we’ll start looking into nursing interventions for this period that continue to promote the health and welfare of the child and mother.”<sup>150</sup> Even though many women succeed in the prison nursery program, their lives outside are in some cases not as successful, leaving the child vulnerable when faced with the reality of their mother’s mistakes. More research on the transition faced from prison to home is, as Dr. Byrne proclaims, necessary.

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<sup>148</sup> M.W. Byrne, et al. “Intergenerational Transmission of Attachment for Infants Raised in a Prison Nursery.” *Attachment & Human Development* 12.4 (2010):375-393 p.375

<sup>149</sup> Dr. Mary Byrne. E-mail interview. 25.10.2011

<sup>150</sup> Susan Conova. “Do Babies Belong in Prison?” Columbia University Medical Center INVIVO 5.1 (2006) [http://www.cumc.columbia.edu/publications/in-vivo/vol4\\_6\\_feb-mar\\_06/imprisoned\\_mother.html](http://www.cumc.columbia.edu/publications/in-vivo/vol4_6_feb-mar_06/imprisoned_mother.html) 11.11.2011

## 2.6 The Case of Norway

The Norwegian justice system is not like the American one. The two systems are quite different when it comes to sentencing, punishment, and prisons. While the Norwegian system supports the idea of rehabilitation, American prisons are for punishment. The Norwegian system is much smaller than the American one and has, therefore, less need for prison nurseries, as the number of pregnant inmates in Norway is not comparable to the numbers in America. Nevertheless, Norway does have a system in place for handling incarcerated pregnant women and their infants. This thesis uses data and information from Norway's largest correctional facility for women, Bredtveit prison in Oslo, as the other women's prisons in the country either failed to respond to my inquiry or had no knowledge of inmate pregnancy at their prison.

Although there is little data available on how many Norwegian prisoners have given birth while incarcerated, there are a few who find themselves in this situation. According to May Åse Magnussen, a psychiatric nurse at Bredtveit prison, pregnant inmates are a growing trend in the prison. Since she started at the prison, the numbers have slowly but surely increased. At the prison, there are currently 64 women incarcerated. There were, however, no pregnant inmates in the prison when this thesis was written.

Another nurse at Bredtveit prison, who spoke on the condition of anonymity, says that the prison gives these women the prenatal care that they need during their pregnancy. There is an on-site doctor, two nurses, and a psychiatric nurse at the prison during the day. (In the evening, the prison can call the emergency room in Oslo for assistance.) Prison psychiatrists as well as dental services are also provided for the inmates once a week. There are frequent visits to a midwife outside the prison, if the women want to talk to someone other than the healthcare personnel in the penitentiary, and ultrasound checks are done at the hospital of their choice in the Oslo area. Countless visits to a midwife and check-ups at hospitals of their

choice are usually not an option for pregnant prisoners in the United States. As in America, most of the incarcerated women at Bredtveit have drug-related crimes on their record, and many of them have experienced abuse and/or neglect their whole lives. Female prisoners in Norway have the same rights to health care as the rest of the population. Pregnant drug addicts that come to the prison are more often than not forced to fight their drug addiction on their own. This is similar to the American system. After a few days, most of the women are symptom free. Some inmates, however, are put on methadone treatment once they arrive in the prison. If the woman has been a previous user of methadone, she is automatically put on the treatment. There are no automatic rules set in place to deal with this issue, but rather that the prison doctor evaluates every pregnant drug addict as they enter the facility.

Carina Loe Ekrem, a social worker at Bredtveit prison, says that Norway is one of the few countries in Europe that does not allow infants to stay with their mothers inside the prison. Thus, Norway does not have prison nurseries as in the United States. Pregnant prisoners in Norway are allowed to keep their infants with them for 3 months after birth at a mother/child home out in the community. After the 12 weeks, the prisoner returns to prison to serve out the remainder of her sentence. In order to be able to participate in the mother/child housing program, the women must have no serious violent offense against children on their record. Other violent offenses are examined and evaluated by Child Protective Services (CPS) before allowing the inmate in question to reside alone with their baby for the 3 months allocated. The non-violent offense on record required by American inmates is assessed with discretion in Norwegian prisons. The same goes for the use of handcuffs. Norwegian inmates are not handcuffed with the same persistence as American inmates, and they are surely not chained to any bed while in labor. In fact, the pregnant inmates are treated with the same respect as the other Norwegian women in labor at the hospital. The prison guard following the

inmate to the hospital is also not required to be in the delivery room, which is quite different from the practices in the United States.

The mother/child homes are very expensive and are paid for by the prison and CPS. Women can stay longer than the 3 months if money allows them to. Sebbelows Stiftelse is one of these homes located in Oslo. Social worker Ruth Larsen says that the length of stay at the home varies greatly from prisoner to prisoner. Some only get to stay for the 3 months. Others get the opportunity to stay for more than a year together with their child(ren). Thus they serve out the remainder of their sentence at the home and not in prison. There are no specific guidelines as to who gets to stay longer at the home, and women with violent offenses on their record are treated in the same manner as those that have not. Furthermore, the father of the child can stay at the home if CPS and the prison allow it.

The mother must be capable of taking care of her child alone while staying at the home. Sebbelows Stiftelse will assist the mother with advice and guidance under the auspices of CPS. The mother does not get any additional follow-ups by the home, as it is CPS who has the primary responsibility for both the mother and the child. The child's mental and physical health is monitored by representatives from CPS, who call for meetings on a regular basis to determine the status of the child's well-being. Furthermore, there are no educational courses that these women need to attend, unlike the American model. Money for diapers and other necessary baby equipment varies greatly. Some get welfare checks from the state, some get help from CPS, and others pay out-of-pocket. In the United States the prison nurseries and community-based alternatives are dependent on charity and/or private and public grants.

When it comes to security, the women are not supervised by correctional officers or representatives from Sebbelows Stiftelse when inside the home. There is, however, a time limit of how long the women can take trips into the city or other places. They are not given a key, so they have to inform employees at the home when they will be returning. There are,



however, different rules applied for the women. Some women can move around more or less freely, others are not allowed to leave the home without supervision. This is in accordance with the security measurements taken in the United States at community-based alternatives. The only difference is that no new mothers serving their sentence at centers in the United States are allowed to go outside the center without supervision.

The children of those who are not eligible to participate in the mother/child homes will be placed into foster care or reside with relatives. For many of these children, it is rare that the father is in the picture. Usually it is grandparents or other close relatives that take care of the child while the mother serves out the rest of her sentence. It is ultimately CPS, however, that determines the child's fate. This is quite similar to what children of incarcerated mothers go through in the United States; however, there is no time limit in Norway as to how long the mother has to be separated from her child before CPS terminates her parental rights. It is actually quite difficult to remove a parent's rights in Norway, unlike the United States. Mothers who have returned from the mother/child homes and those who are forced to give up their child right after giving birth are given visitations once a week with their child. CPS or relatives bring them to the prison, where the inmates can breastfeed their infants and/or give bottles of breast milk to the caregiver. CPS can also allocate several visits if they feel it is necessary, especially when small children are involved. The infants can also be baptized inside the correctional facility by the prison priest. Moreover, Bredtveit prison has a visitation apartment on the premises, where mother and child can spend time together outside the prison setting, making it more habitable for the children and most likely more comfortable for the mother.

The Norwegian system is quite similar to what the Bureau of Federal Prisons offers their pregnant inmates: however, it seems less ethical to keep mother and child together only to separate them after 3 months. In some ways the American system, at least in the prisons

offering a long-term bonding time between mother and child, is more humane than the Norwegian one. Many Norwegian women who have been separated from their child after the 3 months are more likely to fall into a depression than women who are not separated from their baby, for obvious reasons. It is also important to mention that pregnant felons in Norway who are in their last trimester can often delay their incarceration. This means that in some instances they are allowed to give birth before entering the prison.

### CHAPTER 3: FEMALE INMATES' PARENTAL RIGHTS AND HOW MATERNAL INCARCERATION AFFECTS CHILDREN

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In the United States, 70 percent of female inmates are parents, leaving more than 1.3 million children without their mothers nationwide.<sup>151</sup> The majority of the children with an incarcerated parent are between 0 to 9 years old, and Black and Hispanic children are more likely than white children to have an incarcerated father.<sup>152</sup> Female parents are statistically more likely to be white (45%) than Black (30%) or Hispanic (19%).<sup>153</sup> There is, however, a disproportionate representation among Hispanic and Black children that have parents in prison. The statistics on this issue must therefore be viewed and evaluated with discretion, as the high numbers may be because of societal issues, such as poverty or discrimination.<sup>154</sup> The mother is also usually the primary caregiver before incarceration. Numbers from 2007 show that 81% of state prisoners and 75% of federal prisoners (between the age of 25-34) had full custody over their children before entering prison.<sup>155</sup> Due to harsher penalties for non-violent drug offenses, because of the 1986 Anti-Drug Abuse Act, the United States has experienced a surge in its female prison population.<sup>156</sup> These numbers are increasingly high, and one might think about the effect this absence of the mother has on the child. In most cases, the children are cared for by relatives or put in the foster care system. That is usually the fate of newborn babies in states where there are no prison nurseries or community-based alternatives. The Department of Human Services (DHS) and Child Protective Services (CPS) are present when a child is born in custody and are the primary decision makers in most of these cases. This

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<sup>151</sup> Julie Poehlmann. "New Study Shows Children of Incarcerated Mothers Experience Multiple Challenges." Policy Institute for Family Impact Seminars (2003) [http://www.familyimpactseminars.org/fia\\_nlarticle\\_v3i2.pdf](http://www.familyimpactseminars.org/fia_nlarticle_v3i2.pdf) 06.12.2011

<sup>152</sup> Harris, et al. *Children of Incarcerated Parents: Theoretical, Developmental, and Clinical Issues* (2010)

<sup>153</sup> Harris, et al. *Children of Incarcerated Parents: Theoretical, Developmental, and Clinical Issues* (2010)

<sup>154</sup> Harris, et al. *Children of Incarcerated Parents: Theoretical, Developmental, and Clinical Issues* (2010)

<sup>155</sup> Katarzyna Celinska & Jane A. Siegel. "Mothers in Trouble: Coping with Actual or Pending Separation from Children due to Incarceration." *The Prison Journal* 90.4 (2010): 447-474

<sup>156</sup> Adela Beckerman. "Child Welfare Legislation and Policies: Foster Children with a Parent in Prison" in Harris, Graham and Carpenter *Children of Incarcerated Parents: Theoretical, Developmental, and Clinical Issues* (2010)

chapter will look at the parental rights of the mother, the issue of termination of parental rights, and the effect separation from the mother has on a child and vice versa.

### **3.1.0 The Adoption and Safe Families Act (ASFA)**

The child welfare laws in the United States vary from state to state. In some states, the threshold for terminating a prisoner's parental rights is low. "Failure to support or maintain contact with the child"<sup>157</sup> is one of the grounds for termination of parental rights. The federal government also has other reasons for termination:

"Another common ground for termination is a felony conviction of the parent (s) for a crime of violence against the child or another family member, or a conviction for any felony when the term of incarceration is so long as to have a negative impact on the child, and the only available provision of care for the child is foster care."<sup>158</sup>

The length of the sentence plays a big part in whether the mother is viewed as a fit caregiver. It is clear that the child's well-being is more important than the mother's right to be a mom. It is no secret that it is not easy for an incarcerated mother to maintain contact with her child while she is behind bars. Many prisons do not have a good system in place for mother-child bonding, and in many cases, the prisons are located far away from where the children live, and thus the time and money to get to the prison may be too exhausting for the child and economically straining for the relatives and/or foster family. To make a collect phone call from prison, for instance, is expensive, and the time allotted to each prisoner per month is not more than 15 minutes.<sup>159</sup> The American justice system also poses difficulties for these mothers, says scholar Joycelyn Pollock-Byrne:

"Obviously, if the mother is in prison she will not be able to appear at a hearing concerning the child's welfare and defend herself. Legal help is often nonexistent and consequently no one is there to represent the woman's interests. It is possible in some states for the woman to lose all rights and to lose the child completely to adoption proceedings, despite her objections."<sup>160</sup>

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<sup>157</sup> Child Welfare Information Gateway, U.S. Department of Health & Human Services (2010) [http://www.childwelfare.gov/systemwide/laws\\_policies/statutes/groundtermin.cfm](http://www.childwelfare.gov/systemwide/laws_policies/statutes/groundtermin.cfm) 07.11.2011

<sup>158</sup> Child Welfare Information Gateway, U.S. Department of Health & Human Services (2010) [http://www.childwelfare.gov/systemwide/laws\\_policies/statutes/groundtermin.cfm](http://www.childwelfare.gov/systemwide/laws_policies/statutes/groundtermin.cfm) 07.11.2011

<sup>159</sup> Joanne Belknap. *The Invisible Woman: Gender, Crime and Justice* (2001)

<sup>160</sup> Joycelyn Pollock-Byrne. *Women, Prison and Crime* (1990) p.67

Janet Tavarez is one of those women who lost her daughter to the legal system while serving time at the Taconic Correctional Facility in New York. Tavarez, 44, who has been in and out of prison due to drug-related crimes, got her parental rights revoked by the Federal Adoption Assistance and Child Welfare Act of 1980 (AASWA) that dictates that children are not to stay in foster care for more than 24 months. If that happens, termination of parental rights may be set in motion.<sup>161</sup> This also includes children who stay with relatives, which is called kinship foster care.<sup>162</sup> Thus, mothers who are sentenced to more than 2 years in prison may find themselves in a precarious situation when it comes to their parental rights. Most cases show that if parental rights are revoked, the chances of getting those rights back are slim to none.<sup>163</sup> In Tavarez' case, her daughter was adopted by her mother once the AASWA law terminated her parental rights.<sup>164</sup> This means that relatives of inmates are, in many cases, eligible to adopt the child.

Before 1980, child welfare laws were poor, at best, in the United States. From the 1900s until the 1960s, Child Protective Services was non-existent or poorly administrated in the few states in which it existed. The Children's Bureau was founded in 1912, but the federal government did little to ensure the safety of neglected children.<sup>165</sup> The Social Security Act of 1935 had a clause stating that the Children's Bureau had to "cooperate with state public-welfare agencies in establishing, extending, and strengthening, especially in predominantly rural areas, [child welfare services] for the protection and care of homeless, dependent, and

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<sup>161</sup> Becky Flaum. "Formerly Incarcerated Mothers vs. Foster Care." Women Out of Prison, New York University News & Documentary Graduate Program Class of 2009-2010. <http://nyunewsdoc.wordpress.com/foster-care/formerly-incarcerated-mothers-vs-foster-care/> 07.11.2011

<sup>162</sup> Becky Flaum. "Formerly Incarcerated Mothers vs. Foster Care." Women Out of Prison, New York University News & Documentary Graduate Program Class of 2009-2010. <http://nyunewsdoc.wordpress.com/foster-care/formerly-incarcerated-mothers-vs-foster-care/> 07.11.2011

<sup>163</sup> Becky Flaum. "Formerly Incarcerated Mothers vs. Foster Care." Women Out of Prison, New York University News & Documentary Graduate Program Class of 2009-2010. <http://nyunewsdoc.wordpress.com/foster-care/formerly-incarcerated-mothers-vs-foster-care/> 07.11.2011

<sup>164</sup> Little Senegal. "Proposed amendment to New York State Child Welfare Laws." Blog site, Wordpress.com 11.12.2009. <http://littlesenegal.wordpress.com/category/uncategorized/> 20.03.2012

<sup>165</sup> John E.B. Myers "A Short History of Child Protection in America." *Family Law Quarterly* 42.3(2008):449-463

neglected children, and children in danger of becoming delinquent.”<sup>166</sup> This law was the stepping stone to better the future of vulnerable children. The Social Security Act was amended in 1962, giving child protective services more funds in order to expand. It was not until the 1960s, however, that the issue of neglect and abuse became more prevalent, and the American people became more aware of the issue. This awareness and focus on child protection led to the Child Abuse Prevention and Treatment Act (CAPTA) in 1974. This law ordered state funds to be used to improve the various states’ response to child neglect and abuse.<sup>167</sup> The National Center on Child Abuse and Neglect was also established in the 1970s, which has shaped much of contemporary Child Protective Services.<sup>168</sup> Concern over the high number of children lingering in the foster care system led the federal government to implement the AASFA law of 1980.

In 1996, more than 600,000 American children were in foster care. In response to this alarming number and the “growing concerns that child welfare systems across the country were not providing for the safety, permanency, and well-being of affected children in an adequate and timely fashion,”<sup>169</sup> President Clinton signed into law the Adoption and Safe Families Act (ASFA) in 1996, and it was enacted by the federal government in 1997.<sup>170</sup> This law “put an even stricter time frame on how long a child can remain in foster care, setting the limit to 15 months of any given 22-month stretch. After that time, proceedings to terminate

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<sup>166</sup> John E.B. Myers “A Short History of Child Protection in America.” *Family Law Quarterly* 42.3(2008):449-463 p.453

<sup>167</sup> John E.B. Myers “A Short History of Child Protection in America.” *Family Law Quarterly* 42.3(2008):449-463

<sup>168</sup> John E.B. Myers “A Short History of Child Protection in America.” *Family Law Quarterly* 42.3(2008):449-463

<sup>169</sup> Center for the Study of Social Policy “Intentions and Results: A look back at the Adoption and Safe Families Act.” Urban Institute (2009). [http://www.urban.org/uploadedpdf/1001351\\_safe\\_families\\_act.pdf](http://www.urban.org/uploadedpdf/1001351_safe_families_act.pdf) 07.02.2012

<sup>170</sup> Child Welfare Information Gateway “Adoption and Safe Families Act of 1997.” U.S. Department of Health & Human Services [http://www.childwelfare.gov/systemwide/laws\\_policies/federal/index.cfm?event=federalLegislation.viewLegis&id=4](http://www.childwelfare.gov/systemwide/laws_policies/federal/index.cfm?event=federalLegislation.viewLegis&id=4) 20.03.2012

parental rights must begin.”<sup>171</sup> The ASFA law also motivated states financially to move more children out of the foster care system and into a permanent home as “states could now claim between \$4,000 and \$6,000 more for each child adopted through the child welfare system.”<sup>172</sup>

The ASFA law is intended to help prevent a child from lingering in the foster care system while awaiting a permanent home. “Safety, permanency with caring parents, and well-being”<sup>173</sup> are the goals the ASFA law has set for children in the system. If the children’s return to parental care is unsuccessful, the law can put the children up for adoption through Dependency courts that “establish the conditions and time frame for reunification, and oversee the children, their families and parents’ services.”<sup>174</sup> One of ASFA’s lead sponsors, Republican Senator John H. Chafee, said, “We will not continue the current system of always putting the needs and rights of the biological parents first. ...It’s time we recognize that some families simply cannot and should not be kept together.”<sup>175</sup> Critics of the law say it is a disaster and that it destroys already struggling families.<sup>176</sup> Michael Neff, legal adoption specialist at the New York State Office of Children and Family Services, says there are more reunifications between mother and child than there are terminations of relationships.<sup>177</sup> However, this does not mean that there are fewer legal custody battles. Numbers show that 16,000 children are in foster care in New York, and a little under 14 percent of those children

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<sup>171</sup> Becky Flaum. “Formerly Incarcerated Mothers vs. Foster Care.” Women Out of Prison, New York University News & Documentary Graduate Program Class of 2009-2010. <http://nyunewsdoc.wordpress.com/foster-care/formerly-incarcerated-mothers-vs-foster-care/> 07.11.2011

<sup>172</sup> ehow. “American Adoption and Safe Families Act of 1997.”

[http://www.ehow.com/about\\_6466842\\_american-safe-families-act-1997.html](http://www.ehow.com/about_6466842_american-safe-families-act-1997.html) 07.02.2012

<sup>173</sup> Charlene Wear Simmons & Emily Danker-Feldman. “Parental Incarceration, Termination of Parental Rights and Adoption: A Case Study of the Intersection Between the Child Welfare and Criminal Justice Systems.” *Justice Policy Journal*, 7.2 (2010) p.14 [http://www.cjcj.org/files/Parental\\_Incarceration.pdf](http://www.cjcj.org/files/Parental_Incarceration.pdf) 07.11.2011

<sup>174</sup> Charlene Wear Simmons & Emily Danker-Feldman. “Parental Incarceration, Termination of Parental Rights and Adoption: A Case Study of the Intersection Between the Child Welfare and Criminal Justice Systems.” *Justice Policy Journal*, 7.2 (2010) [http://www.cjcj.org/files/Parental\\_Incarceration.pdf](http://www.cjcj.org/files/Parental_Incarceration.pdf) 07.11.2011 p.14

<sup>175</sup> Katharine Q. Seelye. “Clinton to Approve Sweeping Shift in Adoption.” The New York Times, 17.11.1997. <http://www.nytimes.com/1997/11/17/us/clinton-to-approve-sweeping-shift-in-adoption.html> 07.02.2012

<sup>176</sup> Becky Flaum. “Formerly Incarcerated Mothers vs. Foster Care.” Women Out of Prison, New York University News & Documentary Graduate Program Class of 2009-2010. <http://nyunewsdoc.wordpress.com/foster-care/formerly-incarcerated-mothers-vs-foster-care/> 07.11.2011

<sup>177</sup> Becky Flaum. “Formerly Incarcerated Mothers vs. Foster Care.” Women Out of Prison, New York University News & Documentary Graduate Program Class of 2009-2010. <http://nyunewsdoc.wordpress.com/foster-care/formerly-incarcerated-mothers-vs-foster-care/> 07.11.2011

have an imprisoned parent. These numbers are one of the reasons why a new bill called the ASFA Expanded Discretion Bill was passed as law in the New York Assembly in 2010, and it places New York as one of the most progressive states in America when it comes to child welfare laws.<sup>178</sup> The law gives the mothers and their families a fairer chance of retaining the parental rights over the child. The non-profit organization, Correctional Association of New York, says that the new law terminates the ASFA law from 1997 and

“allows foster care agencies to delay filing for termination if a parent is in prison or a residential drug treatment program or if a parent’s prior incarceration or program participation is a significant factor in why the child has been in foster care for 15 of the last 22 months. For the first time, the new law will require foster care agencies to inform incarcerated parents of their rights and responsibilities and to provide referrals to social services and family visiting programs.”<sup>179</sup>

Even though incarcerated women in New York might have an easier time holding on to their parental rights due to this law, not all incarcerated women in the United States have that opportunity.

In California, for instance, incarcerated mothers must follow the requirements of the ASFA law from 1997. In addition, the state also requires proceedings to terminate parental rights if the child is under the age of 3 and has been in the foster care system for 6 months.<sup>180</sup> Exceptions can be made if: “(1) a child is being cared for by a relative, (2) the state shows a compelling reason why termination of parental rights is not in the best interests of the child, or (3) the state agency has not provided the services required by the case plan to return the child to a safe home.”<sup>181</sup> The reunification services the courts expect imprisoned mothers to take part in can be difficult to gain access to, such as parenting classes, substance abuse treatment,

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<sup>178</sup> Becky Flaum. “Formerly Incarcerated Mothers vs. Foster Care.” Women Out of Prison, New York University News & Documentary Graduate Program Class of 2009-2010. <http://nyunewsdoc.wordpress.com/foster-care/formerly-incarcerated-mothers-vs-foster-care/> 07.11.2011

<sup>179</sup> The Correctional Association of New York. “Protecting Bonds between Mothers and Children.” [http://www.correctionalassociation.org/policy\\_agenda/protecting\\_mothers\\_and\\_children.htm](http://www.correctionalassociation.org/policy_agenda/protecting_mothers_and_children.htm) 26.04.2012

<sup>180</sup> Charlene Wear Simmons & Emily Danker-Feldman. “Parental Incarceration, Termination of Parental Rights and Adoption: A Case Study of the Intersection Between the Child Welfare and Criminal Justice Systems.” *Justice Policy Journal*, 7.2 (2010) [http://www.cjcj.org/files/Parental\\_Incarceration.pdf](http://www.cjcj.org/files/Parental_Incarceration.pdf) 07.11.2011

<sup>181</sup> Charlene Wear Simmons & Emily Danker-Feldman. “Parental Incarceration, Termination of Parental Rights and Adoption: A Case Study of the Intersection Between the Child Welfare and Criminal Justice Systems.” *Justice Policy Journal*, 7.2 (2010) p.7 [http://www.cjcj.org/files/Parental\\_Incarceration.pdf](http://www.cjcj.org/files/Parental_Incarceration.pdf) 07.11.2011



mental health therapy, or educational programs. It can be difficult for the women because of “procedural difficulties in receiving timely notice of court hearings and making arrangements to be transported to court.”<sup>182</sup> The legal system, in general, is difficult for many inmates to understand. They are often not informed about their legal rights, and thus they tend to struggle with the foster care system.<sup>183</sup> The challenges incarcerated mothers have faced since the ASFA law was implemented in California have led to a 40% increase of adoptions in the state, and national research has found that since 1997, more children are adopted and fewer are lingering in the foster care system.<sup>184</sup> This indicates that the key provision of the law has been fulfilled.

Getting legal help and information while incarcerated may be limited. There are, however, several advocacy organizations in California, and in other states, that work to help imprisoned women and mothers. One of them is the San Francisco based Legal Services for Prisoners with Children (LSPC). LSPC started in 1978 as one of the few organizations in the nation helping female prisoners and their families. Their goal is to fight for these women’s civil rights and their legal rights as mothers.<sup>185</sup> LSPC conducted a survey in 2007 where they interviewed formerly incarcerated mothers, children of incarcerated or formerly incarcerated mothers, and care providers about “reunification timelines and custody and parenting needs,”<sup>186</sup> and the conclusion of the study was:

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<sup>182</sup> Charlene Wear Simmons & Emily Danker-Feldman. “Parental Incarceration, Termination of Parental Rights and Adoption: A Case Study of the Intersection Between the Child Welfare and Criminal Justice Systems.” *Justice Policy Journal*, 7.2 (2010) p.7 [http://www.cjcj.org/files/Parental\\_Incarceration.pdf](http://www.cjcj.org/files/Parental_Incarceration.pdf) 07.11.2011

<sup>183</sup> Charlene Wear Simmons & Emily Danker-Feldman. “Parental Incarceration, Termination of Parental Rights and Adoption: A Case Study of the Intersection Between the Child Welfare and Criminal Justice Systems.” *Justice Policy Journal*, 7.2 (2010) [http://www.cjcj.org/files/Parental\\_Incarceration.pdf](http://www.cjcj.org/files/Parental_Incarceration.pdf) 07.11.2011

<sup>184</sup> Charlene Wear Simmons & Emily Danker-Feldman. “Parental Incarceration, Termination of Parental Rights and Adoption: A Case Study of the Intersection Between the Child Welfare and Criminal Justice Systems.” *Justice Policy Journal*, 7.2 (2010) [http://www.cjcj.org/files/Parental\\_Incarceration.pdf](http://www.cjcj.org/files/Parental_Incarceration.pdf) 07.11.2011

<sup>185</sup> Legal Services for Prisoners with Children. <http://www.prisonerswithchildren.org/about/history/> 07.11.2011

<sup>186</sup> Charlene Wear Simmons & Emily Danker-Feldman. “Parental Incarceration, Termination of Parental Rights and Adoption: A Case Study of the Intersection Between the Child Welfare and Criminal Justice Systems.” *Justice Policy Journal*, 7.2 (2010) p.20 [http://www.cjcj.org/files/Parental\\_Incarceration.pdf](http://www.cjcj.org/files/Parental_Incarceration.pdf) 07.11.2011

“Although no one had ever heard of the Adoption and Safe Families Act, every person interviewed had been affected by it. Most interviewees referred to the ASFA as ‘that new law.’... Some were still involved in custody battles, parental rights restoration and foster care issues.... They needed someone to help them (such as an advocate), but there was no one available. All felt that they were railroaded through processes and paperwork without being able to express their wants and needs regarding the care of their children.”<sup>187</sup>

This underlines the hardships that many of these women have to deal with when faced with losing their children. Justice Now is another California based organization that gives much needed legal help to incarcerated women. The organization provides defense of parental rights, access to health care, and placement in community-based programs.<sup>188</sup> In Alabama, Aid to Inmate Mothers (AIM) works to facilitate longer visitation time between mother and child in Alabama’s prisons. AIM reports that “the children’s emotional health profoundly improves”<sup>189</sup> when they get the much-needed bonding time with their mothers. The non-profit organization also provides educational programs for both mother and child, summer camp for children of incarcerated parents, Christmas parties, and more.<sup>190</sup> Women’s Prison Association (WPA) is a national service and advocacy organization that seeks to guide, inform and help women who are incarcerated or have recently gotten out of prison. Legal services, health care, family reunification and employment are some of the areas in which WPA offer their support.<sup>191</sup> The Rebecca Project for Human Rights is another organization that offers legal help, among other things, to vulnerable women in the country, such as imprisoned mothers.<sup>192</sup> There are many more of these organizations spread around the United States that work for the women and lend them a much-needed helping hand.

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<sup>187</sup> Charlene Wear Simmons & Emily Danker-Feldman. “Parental Incarceration, Termination of Parental Rights and Adoption: A Case Study of the Intersection Between the Child Welfare and Criminal Justice Systems.” *Justice Policy Journal*, 7.2 (2010) p.20 [http://www.cjcj.org/files/Parental\\_Incarceration.pdf](http://www.cjcj.org/files/Parental_Incarceration.pdf) 07.11.2011

<sup>188</sup> Justice Now. <http://www.jnow.org/what.html> 07.11.2011

<sup>189</sup> Aid to inmate Mothers. <http://www.inmatemoms.org/about-us-history.aspx> 07.11.2011

<sup>190</sup> Aid to inmate Mothers. <http://www.inmatemoms.org/about-us-history.aspx> 07.11.2011

<sup>191</sup> The Women’s Prison Association. <http://www.wpaonline.org/about/index.htm> 07.11.2011

<sup>192</sup> The Rebecca Project for Human Rights. <http://www.rebeccaproject.org/> 07.11.2011

### 3.1.1 The impact of the absence of prison nurseries and community-based alternatives

In states where prison nurseries and community-based alternatives are absent, pregnant inmates are faced with a tough choice regarding the care of their newborn babies. In the National Geographic program “Female Felons,” Jill Newland, a first-time offender in Maryland’s Correctional Institution for Women, is pregnant with twins. Jill does not have a typical criminal background. She grew up in a middle class suburb of Baltimore, attended college, and led a comfortable life with her husband and two children, until she got hooked on painkillers. Newland says of her drug use; “It just escalated. I ran out of prescription medication, so I went to other things—I started experimenting with heroin and cocaine.”<sup>193</sup> Jill eventually turned to crime to support her habit and was convicted of first-degree burglary, which landed her an 8-year sentence. She was put on probation but later violated it and is now doing hard time.<sup>194</sup> Prison is tough enough for first timers, but for Jill it has proven even harder, as there is no private section for pregnant prisoners in the facility. In Maryland Correctional Prison for Women, pregnant inmates are treated like everyone else and are mixed with the general population. Newland says, “You have to watch yourself”<sup>195</sup> among other inmates, because you never know when a fight is going to break out. Because Jill is carrying twins, the prison decided to confine her to the infirmary, a small wing separate from the main housing units, as her due date nears. Twin births are considered high-risk, and Jill’s past drug use could jeopardize the twins health if not monitored.<sup>196</sup> For Jill, being separated from her twins after birth is traumatic, but she is considered lucky to have a husband to take care of her children. More often than not, children of incarcerated mothers are either placed in the foster care system or in the care of their grandparents.

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<sup>193</sup> “Female Felons.” *Lockdown*. National Geographic, S04E01. 14.06.2009

<sup>194</sup> “Female Felons.” *Lockdown*. National Geographic, S04E01. 14.06.2009

<sup>195</sup> “Female Felons.” *Lockdown*. National Geographic, S04E01. 14.06.2009

<sup>196</sup> “Female Felons.” *Lockdown*. National Geographic, S04E01. 14.06.2009

In Oregon, pregnant inmates are also required to give up their baby directly after birth. The state has more than 7,700 children in foster care, with 40 percent being under 5 years old. Forty-one percent of the children have a parent or caregiver who is a convicted felon.<sup>197</sup> In Wilsonville, Oregon, Coffee Creek Correctional Facility (CCCF) is home to more than 992 female inmates, and 6 percent of those who enter the prison are pregnant.<sup>198</sup> Between 2003 and 2008, 104 babies have been born to CCCF inmates. The normal cost for delivering a baby at Legacy Meridian Park Hospital (the hospital the prison uses) for their entire prenatal care is about \$30,000, and for the baby it is about \$2000.<sup>199</sup> It is a costly affair for the Department of Corrections, which pays for all of the expenses related to the birth. All pregnant women at CCCF get the prenatal care they need to deliver a healthy baby.<sup>200</sup> Judge Doug Mitchell of Lane County Circuit Court in Eugene says that

“In most of the cases that I sentence, whether or not the defendant is pregnant really doesn’t have any bearing on the sentence that I impose. Partly that’s because most of the sentences are negotiated and are recommendations to the judge, and the prosecutor and the defense lawyer have shaped a sentence that makes sense, and I just simply follow the deal.”<sup>201</sup>

Being pregnant should, in other words, have no “positive” effect on the felon’s sentence. Rather, it is much harder for women who find themselves pregnant while behind bars, especially for those who are incarcerated in states that do not offer nurseries or other programs to help keep mother and child together after birth.

In the documentary *A Sentence for Two*, four women share their stories of being pregnant in prison. The women are incarcerated at CCCF, and they all have multi-year sentences. Cristina is serving a 65-month sentence for identity theft and possession of methamphetamine. Kristin, another pregnant inmate, is serving a 34-month sentence for

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<sup>197</sup> Randi Jacobs. *A Sentence for Two* (2008)

<sup>198</sup> Randi Jacobs. *A Sentence for Two* (2008)

<sup>199</sup> Randi Jacobs. *A Sentence for Two* (2008)

<sup>200</sup> Randi Jacobs. *A Sentence for Two* (2008)

<sup>201</sup> Randi Jacobs. *A Sentence for Two* (2008)

robbery, theft and identity theft, and Trisha is serving a 36-month sentence for assaulting her husband. The documentary also shows the story of Tangerine, a former inmate at CCCF, who adds the perspective of someone who has already been through a pregnancy behind bars.

Cristina was 6 months pregnant when she arrived at CCCF. As have many other female inmates, Cristina had a troubled childhood. Her mother was an alcoholic and her father a heroin addict. She was also sexually abused when she was younger by one of her mother's boyfriends. She never received any treatment or counseling for that abuse, which has led to her suffering from Post Traumatic Stress Disorder (PTSD). In fact, women who have experienced physical and mental abuse in their lifetime have a higher risk of experiencing depression, PTSD, and other panic disorders. These women are also more likely than others to smoke, abuse alcohol and narcotics, and expose themselves to self-injury, unhealthy weight control, promiscuous behavior, and suicide thoughts.<sup>202</sup> Numbers show that 80% of female inmates "meet the criteria for at least one lifetime psychiatric disorder."<sup>203</sup> Although Cristina managed to get her life back on track for a short period of time in her late teens (she got married and had three children), her life took a turn for the worse in her early twenties. Cristina's addiction to methamphetamine started to control her behavior and led her into a life of criminal activity to support her habit. After spending 4 years in recovery, Cristina started to abuse drugs again and ended up in prison—pregnant.<sup>204</sup>

Kristin arrived at CCCF 6 months pregnant. Her childhood story is similar to Cristina's. Her parents were drug addicts and her father was very abusive, which led her to move out when she was only 12 years old. At the same time, her mother introduced her to methamphetamine, which she used regularly during her teenage years. Kristin says she

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<sup>202</sup> Charlene Wear Simmons & Emily Danker-Feldman. "Parental Incarceration, Termination of Parental Rights and Adoption: A Case Study of the Intersection Between the Child Welfare and Criminal Justice Systems." *Justice Policy Journal*, 7.2 (2010) [http://www.cjcj.org/files/Parental\\_Incarceration.pdf](http://www.cjcj.org/files/Parental_Incarceration.pdf) 07.11.2011

<sup>203</sup> Charlene Wear Simmons & Emily Danker-Feldman. "Parental Incarceration, Termination of Parental Rights and Adoption: A Case Study of the Intersection Between the Child Welfare and Criminal Justice Systems." *Justice Policy Journal*, 7.2 (2010)p.30 [http://www.cjcj.org/files/Parental\\_Incarceration.pdf](http://www.cjcj.org/files/Parental_Incarceration.pdf) 07.11.2011

<sup>204</sup> Randi Jacobs. *A Sentence for Two* (2008)

stopped using when she got married and had children, but started using again after a couple of years. She says she “chose a life that was full of drugs and crime.”<sup>205</sup> Growing up in that type of environment, where everyone you know is on drugs, makes the process of breaking out of that environment very hard. That life is the only life she knows, and it is a dangerous background to return to once she is out of prison.

Trisha was 8-months pregnant when she arrived at CCCF. Trisha’s background differs from the other women. Although she lost her mother when she was only a toddler and her father was a drug addict, Trisha had a good childhood being raised by her grandparents. They made sure she got an education and steered her away from drugs and crime. Trisha says she has never been arrested before and she has never done drugs. Unfortunately, she still ended up in prison. Her husband, a drug addict, reported her for domestic violence after she had assaulted him with a car seat. Trisha has two daughters, a 13-year-old who lives with her aunt and uncle, and a 3-year-old who lives with her husband.

Tangerine tells her story of how she had to give up her baby in prison. Tangerine’s childhood was similar to that of the majority of female inmates, filled with drugs, violence and abuse. Like Cristina, Tangerine did not receive any treatment or help for her traumas as a child. This resulted in the vicious circle of drugs and crime. Sentenced to 32 months in prison, Tangerine asked for an abortion before she arrived at CCCF. Tangerine knew that she had no one to take care of her baby while she was imprisoned. Her application was denied. The cost for a 1<sup>st</sup> trimester abortion in Oregon is \$450 and \$100 for each additional week up to 23 weeks. Lori Humbert, Assistant Superintendent of Program Services at CCCF, says,

“We have to be neutral on abortion or no abortion. If the woman wants an abortion, that is an optional medical procedure that she has to pay for herself. We cannot expend the state funds on that unless there is a medical issue going on that is another complication. But short of that happening, the women can seek that, but on their own expense.”<sup>206</sup>

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<sup>205</sup> Randi Jacobs. *A Sentence for Two* (2008)

<sup>206</sup> Randi Jacobs. *A Sentence for Two* (2008)

From an economical point-of-view, abortion is much cheaper than the cost of giving birth, and it may avoid needless suffering for the child who is left without his or her mother and is often moved around in the foster care system. Linger in the foster care system is also a cost, both emotionally and economically, and, in some cases, it may relieve society from a potential prisoner when that child reaches adulthood. This may be a cold and cynical way of thinking, but it is nevertheless a plausible scenario, if you take into account the numbers and conclusions presented by scholars, organizations, and the Bureau of Justice Statistics on children of prisoners. Although Tangerine was not denied her right to have an abortion, coming up with the funds to pay for it was a whole other matter. With the socioeconomic background that most of these women share, \$450 is a lot of money and is therefore not an option for many. The rules on abortion for incarcerated women vary from state to state and from institution to institution. A survey conducted on the availability of abortion for pregnant prisoners showed that in some institutions, the women did not have access to an abortion due to state laws, (which is peculiar since no state has a specific ban on abortion for inmates. However, some states refuse to pay for the abortion). Other institutions reported that even though women are free to have an abortion, there is little if any help from the prison/jail to help pay for the abortion or even provide transportation to the abortion clinic.<sup>207</sup>

Tangerine has 3 other children, all of whom lived with her sister while she was incarcerated. Her sister was approved by DHS to be the permanent caregiver of Tangerine's 4<sup>th</sup> son. All of Tangerine's boys were removed from her sister's care, however, after it was revealed that her sons were being molested. Since this incident, three of Tangerine's children have been adopted, with no contact with their mother. Tangerine did, however, regain parental rights over one of her sons.<sup>208</sup>

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<sup>207</sup> Diana Kasdan. "Abortion Access for Incarcerated Women: Are Correctional Health Practices in Conflict With Constitutional Standards?" *Perspectives on Sexual and Reproductive Health* 41.1 (2009): 59–62

<sup>208</sup> Randi Jacobs. *A Sentence for Two* (2008)

Cristina, chose open adoption for her son, which was a hard choice to make. Although it is not the option she would have preferred, it is better than losing her child to DHS. Cristina says she has had a difficult history with the department with regard to her three other children. Because of the length of her sentence, DHS will automatically petition to terminate her parental rights over her new baby. Christina says, “I’d rather have a plan for this child and make sure that he has a loving/caring home. I have more control over the choice.”<sup>209</sup> After a long and hard quest by the adoption agency to find a family willing to agree to an open adoption with an inmate, Cristina finally found a couple.

Kristin had planned that the paternal grandmother of her child would look after her baby while she was imprisoned. That did not happen. Kristin’s parental rights were terminated when she got out of prison. In fact, she lost legal custody of all of her children. (Kristin was released after serving 17 months of her 34-month sentence. Due to violation of her transitional leave, however, she was returned to CCCF to complete her sentence.)

Trisha’s plan was for her 23-year-old half sister to take in her baby. A week before her due date, her sister backed out, which led to her newborn being placed in foster care. Unfortunately for Trisha, DHS terminated her parental rights, and her baby was adopted.

All the women interviewed at CCCF seem to believe they are fit caregivers for their children. They are also portrayed in a light that makes the viewer feel sorry for them. Empathy for the women is definitely there, but we must also consider the fact that there is a reason for why they are in prison. There is a reason for why DHS has taken their children away from them. If they cannot take care of the children that they already have, I question their ability to take care of their latest offspring.

One may wonder why so many of these women are so destructive with regard to their unborn babies. Lori Humbert gives a possible and insightful explanation as to why that is:

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<sup>209</sup> Randi Jacobs. *A Sentence for Two* (2008)



“It is very rare that we find a female inmate who does not have one or more of the abuses in her background, whether it is sexual, mental, or physical abuse. The vast majority of them suffer from that, and because of that, usually, developmentally they have stopped progressing at the age that it started happening, and then their drug and alcohol usage started at that age, because they are using that to medicate themselves. So many of the people we have, emotionally are in their early teens, because they have stopped developing.”<sup>210</sup>

As many female inmates share this dark background, you would think they would do their best to keep their newborn child away from that same environment. But if many of them still reside emotionally in a teenage state of mind, their choices might not be so surprising. It has been argued that “having a genetic predisposition for criminal behavior does not determine the actions of an individual, but if they are exposed to the right environment, then their chances are greater for engaging in criminal or anti-social behavior.”<sup>211</sup> Children growing up with relatives is the most beneficial, but growing up in a crime-ridden area is not a healthy environment and may increase the child’s chances of following in their mother’s footsteps. The majority of the female inmate population in the United States are in prison because of drug-related offenses, and many were using drugs and narcotics as a way to cope with their childhood/teenage traumas before entering a penitentiary. The sexual abuse that many of these women have experienced is often the trigger that leads to criminal behavior.<sup>212</sup> Judge Mitchell makes an important observation on the painful cycle that many of these women find themselves in:

“You take someone who has grown up in a difficult and abusive environment, with no good role models, often in poverty. You mix in addiction, lack of education, and you have got a problem that is really, really hard to unravel. There is not any 24-week program that turns that stuff around.”<sup>213</sup>

Many female inmates try to make improvements in their lives by attending educational classes offered in prison. For Trisha, Kristin, Cristina and Tangerine, parenting classes at CCCF helped them work on their skills as caregivers and mothers. Tangerine, for instance, obtained

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<sup>210</sup> Randi Jacobs. *A Sentence for Two* (2008)

<sup>211</sup> Caitlin M. Jones. “Genetic and Environmental Influences on Criminal Behavior.” Rochester Institute of Technology (2005). <http://www.personalityresearch.org/papers/jones.html> 22.09.2011

<sup>212</sup> Katarzyna Celinska & Jane A. Siegel. “Mothers in Trouble: Coping with Actual or Pending Separation from Children due to Incarceration.” *The Prison Journal* 90.4 (2010):447-474

<sup>213</sup> Randi Jacobs. *A Sentence for Two* (2008)

her GED while imprisoned, which helped her to pursue a college education when she was released. Such programs are the central core of building a successful prison nursery or community-based alternative.

Dr. Mary Byrne underlines the importance of the need for a prison nursery to be “a well thought out, carefully planned program.”<sup>214</sup> The prison must have medical personnel, appropriate security measures, educational programs, and strict rules in order to start a prison nursery. While prison nurseries are filled with opportunities for inmates to better themselves (both on a personal level and academically), other prisons do not offer as many, if any, educational programs. It has been documented by scholars that family programs, where inmates reunite with their children, help the parents to return successfully back to society and help keep the children from following in their parents footsteps.<sup>215</sup>

### **3.2 The Effect Separation from the Mother has on the Child**

Statistics show that children with an incarcerated parent are 5 times more likely than their peers to end up in the criminal justice system when they reach adulthood.<sup>216</sup> Lori Humbert at CCCF, who has been with the Department of Corrections for more than 27 years, reports that she has seen children visiting their mothers come back as adult prisoners.<sup>217</sup> There is little scholarly work on the effects parental incarceration have on children, but there are some studies that indicate great challenges for those who find themselves in that situation. Children of incarcerated mothers in Wisconsin, for instance, (age 2 to 7) “were subject to multiple biological and environmental risks. Sixty percent had been exposed to chemical substances

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<sup>214</sup> Randi Jacobs. *A Sentence for Two* (2008)

<sup>215</sup> Kristina Toth and Kerry Kazura. “Building Partnerships to Strengthen Families: Intervention Programs and Recommendations” in Harris, Graham and Carpenter *Children of Incarcerated Parents: Theoretical, Developmental, and Clinical Issues* (2010)

<sup>216</sup> Sophie Naudeau. “Children of Incarcerated Parents: Developmental Trajectories Among School-Age Children” in Harris, Graham and Carpenter *Children of Incarcerated Parents: Theoretical, Developmental, and Clinical Issues* (2010)

<sup>217</sup> Randi Jacobs. *A Sentence for Two* (2008)

before birth, 45% had complications at birth, and over 20% were born preterm.”<sup>218</sup> Those given the task of caring for these children while their mothers are in prison, face several challenges as well, which consequently may affect the child in a negative way. Many of the caregivers are single, have a low income or are unemployed, they are not in the best of health and care for more than one child at the same time. The study also showed that 60 percent of the caregivers were on welfare.<sup>219</sup> The oldest children in the study were more content with their situation than the youngest. Thirty-seven percent of the children had a secure attachment with their mother and caregiver, while the rest of the group felt disconnected or detached from both mother and caregiver. The children who resided with the same caregiver during their mother’s incarceration found themselves to be more secure toward their relationship with their mothers and caregiver.<sup>220</sup> This study indicates that children who have a mother in prison are at a much higher risk of unhealthy development than other children. Other scholars have also found that children of incarcerated parents find themselves in a more vulnerable environment than their peers:

“Among the most commonly cited effects are loss of parental socialization through role modeling, support, and supervision; feelings of abandonment, loneliness, shame, guilt (including survivor guilt), sadness, anger, and resentment; eating and sleeping disorders; diminished academic performances; and disruptive behaviors at home or at school. In addition, feelings of being stigmatized by peers, teachers, and society in general might emerge among school-age children.”<sup>221</sup>

Although parental incarceration can be very difficult, both mentally and physically, for many children, it is ten times more difficult if it is the mother that goes to prison. Lori Humbert at CCCF says,

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<sup>218</sup> Julie Poehlmann. “New Study Shows Children of Incarcerated Mothers Experience Multiple Challenges.” Policy Institute for Family Impact Seminars (2003) [http://www.familyimpactseminars.org/fia\\_nlarticle\\_v3i2.pdf](http://www.familyimpactseminars.org/fia_nlarticle_v3i2.pdf) 06.12.2011

<sup>219</sup> Julie Poehlmann. “New Study Shows Children of Incarcerated Mothers Experience Multiple Challenges.” Policy Institute for Family Impact Seminars (2003) [http://www.familyimpactseminars.org/fia\\_nlarticle\\_v3i2.pdf](http://www.familyimpactseminars.org/fia_nlarticle_v3i2.pdf) 06.12.2011

<sup>220</sup> Julie Poehlmann. “New Study Shows Children of Incarcerated Mothers Experience Multiple Challenges.” Policy Institute for Family Impact Seminars (2003) [http://www.familyimpactseminars.org/fia\\_nlarticle\\_v3i2.pdf](http://www.familyimpactseminars.org/fia_nlarticle_v3i2.pdf) 06.12.2011

<sup>221</sup> Sophie Naudeau. “Children of Incarcerated Parents: Developmental Trajectories Among School-Age Children” in Harris, Graham and Carpenter *Children of Incarcerated Parents: Theoretical, Developmental, and Clinical Issues* (2010)p.49

“Usually the inmates are single parents; the father is not in the picture at the point of arrest. The children almost always have to move if the mother is arrested, unlike when the father is arrested, the children normally stay where they are at. They are not as directly impacted with issues of residence when the father goes to jail or to prison.”<sup>222</sup>

There is a much bigger disruption for the children if they are separated from their mothers.

Ninety percent of incarcerated fathers report that their children are under their mother’s care, while only thirty percent of fathers take care of the children while the mother is in prison.<sup>223</sup>

Many children (53%) stay with their grandparents when their mother goes to prison. Other relatives of the child (30%) and friends of the family (10%) may also take on the caregiver role during the time the mother is away. Less than 10 percent of mothers in state prisons placed their children in foster care.<sup>224</sup> These numbers indicate that the majority of children who lose their mothers are uprooted from their environment and forced to move in with relatives or be placed in the care of DHS or CPS. For instance, in a five-year period, children with mothers in prison were four to five times more likely to move than other children.<sup>225</sup> There are usually not the same dramatic life changes when fathers are sent to prison, but this is not to say that children do not suffer when they are separated from their fathers.

Separation from infants has a profound effect on the bonding experience between mother and child. Trisha, Tangerine, Kristin and Cristina all suffered from depression when they returned to prison after giving birth. Anger, resentment, fear and sorrow were some of the symptoms all of them had to endure. For the infant, the bonding experience is crucial for future development. Dr. Sarojini Budden, Developmental Pediatrician, says,

“Bonding is an interesting factor in how human beings develop. Insecure babies do not attach the same bonds with their mother as secure infants do. The baby that has no consistency in his/her environment,

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<sup>222</sup> Randi Jacobs. *A Sentence for Two* (2008)

<sup>223</sup> Kathy Boudin and Sarah Zeller-Berkman, “Children of Promise” in Harris, Graham and Carpenter *Children of Incarcerated Parents: Theoretical, Developmental, and Clinical Issues* (2010)

<sup>224</sup> Kathy Boudin and Sarah Zeller-Berkman, “Children of Promise” in Harris, Graham and Carpenter *Children of Incarcerated Parents: Theoretical, Developmental, and Clinical Issues* (2010)

<sup>225</sup> Tabitha R. Holmes, et al. “Parents’ in the System’: An Ecological Systems Approach to the Development of Children with Incarcerated Parents” in Harris, Graham and Carpenter *Children of Incarcerated Parents: Theoretical, Developmental, and Clinical Issues* (2010)

meaning that he or she move from one home to another, those are children that develop very significant and serious behavioral emotional issues. Attachments are the building blocks of how children/human beings develop empathy, a level of consciousness about who they are, and how they relate to the world around them.<sup>226</sup>

The importance of mother-child bonding has been well established, and it is known that “the central aspects of human behavior are created in infancy through early primary care giving relationships.”<sup>227</sup> Thus, the environment infants find themselves in after birth will color their behavior as adults. Moreover, high-risk children who experience secure bonding with their mothers during infancy have less behavior problems when growing up than children who experience an unstable and/or insecure bonding experience.<sup>228</sup> This argument supports the primary goal of a prison nursery: securing the crucial bonding time between mother and infant, leaving the child better equipped to face the challenges of growing up. Women who have the opportunity to keep their babies with them while doing time clearly have an advantage over those women who are not as fortunate.

The bonding experience and the positive effects it has is one of the primary reasons why prison nurseries have been established. However, the bonding experience can also be sustained with an adoptive parent or a relative (as long as the baby is not moved from relative to relative). Taking this into account, I would argue that pregnant inmates who cannot take part in any prison nursery program and have no one in their family to care for their baby must consider adoption. Although many women do better themselves in prison and are capable of taking care of their children once they get out, the crucial bonding time is lost and the child may have grown attached to someone else while their mother was in prison. The age of the child when the mother is released and how long the mother has been away from the child may play a part in how their relationship might develop. A toddler who has been separated from

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<sup>226</sup> Randi Jacobs. *A Sentence for Two* (2008)

<sup>227</sup> L.S. Goshin and M.W. Byrne. “Converging Streams of Opportunity for Prison Nursery Programs in the United States.” *Journal of Offender Rehabilitation*, 48.4 (2009): 271-295 p.288

<sup>228</sup> L.S. Goshin and M.W. Byrne. “Converging Streams of Opportunity for Prison Nursery Programs in the United States.” *Journal of Offender Rehabilitation*, 48.4 (2009): 271-295

the mother since birth might react differently to reuniting with the mother than a child who is older and was not separated from the mother after birth. The prison nurseries are set up so that the women will leave the prison with their babies, which means there is no separation between mother and child, unless the mother relapses and goes back to prison. That is one factor that might jeopardize the positive bonding time of a prison nursery program. However, the few studies that have been conducted on prison nurseries show that the recidivism rate is low. This indicates that prison nursery participants are less likely to commit new crimes upon release compared to their peers who do not have the opportunity to participate. Their parental rights are also not jeopardized when their babies are with them.

### **3.3 The Effect Separation from the Child has on the Mother**

The stereotype image that most have of incarcerated mothers is that they are incompetent, selfish and careless when it comes to caring for their children. For some inmates, that may be so, but for others, the truth is usually quite different. According to Professor Stephanie S. Covington, “separation from and concern about the well being of their children are considered to be among the most damaging aspects of prison for women, and the problem is exacerbated by a lack of contact.”<sup>229</sup> Another interesting aspect is “[o]ne of the greatest differences in stresses for women and men serving time is that the separation from children is generally a much greater hardship for women than for men.”<sup>230</sup> This is most likely due to the fact that the mother is usually the primary caregiver before entering prison. In order to cope with the loss of their child(ren), many incarcerated mothers lash out on the criminal justice system by

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<sup>229</sup> Stephanie S. Covington. “From Prison to Home: The Effect of Incarceration and Reentry on Children, Families, and Communities: A Woman’s Journey Home: Challenges for Female Offenders and Their Children” 2001. <http://aspe.hhs.gov/hsp/prison2home02/Covington.htm#Profile> 08.12.2011

<sup>230</sup> Stephanie S. Covington. “From Prison to Home: The Effect of Incarceration and Reentry on Children, Families, and Communities: A Woman’s Journey Home: Challenges for Female Offenders and Their Children” 2001 <http://aspe.hhs.gov/hsp/prison2home02/Covington.htm#Profile> 08.12.2011

fighting, manipulating or breaking rules.<sup>231</sup> The difficulties of not seeing or talking to their children for lengthy periods of time have a profound effect on the mothers' well-being. The phone calls, letters and visits the mothers receive from their children do help them to live with the separation from their loved ones, and it helps them, to some extent, adjust more smoothly to prison life.<sup>232</sup> Some critics argue that the visitation these mothers receive is usually of poor quality, due to the lack of child-friendly visitation rooms in the prison and the irregular visits of the child(ren). The role of motherhood is therefore very limited for the inmates and thus does not lessen the pain of prison life.<sup>233</sup> Incarcerated parents must also get the information they need about their parental rights once they are in prison. Once out of prison, most of the mothers want their children back. In some cases they regain full custody of their children, in others, the road to regain full custody can be tough. On top of CPS or DHS's decision about whether or not the mother should get her child(ren) back, life as an ex-convict is not easy. Many newly released prisoners have a hard time finding employment, a place to live, and keeping themselves away from drugs and crime. On top of that, there is a lot of discrimination against that population in general.

### 3.4 Prison Nurseries versus Adoption

The National Conference in State Legislatures has found that,

“...intervening in the lives of incarcerated parents and their children to preserve and strengthen positive family connections can yield positive societal benefits in the form of reduced recidivism, less intergenerational criminal justice system involvement, and promotion of healthy child development.”<sup>234</sup>

This quote makes it clear that the ASFA law is there primarily for the child and not the

mother. Although the law intends to look after the mother and child, it tends to be very strict

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<sup>231</sup> Stephanie S. Covington. “From Prison to Home: The Effect of Incarceration and Reentry on Children, Families, and Communities: A Woman’s Journey Home: Challenges for Female Offenders and Their Children” 2001 <http://aspe.hhs.gov/hsp/prison2home02/Covington.htm#Profile> 08.12.2011

<sup>232</sup> Katarzyna Celinska & Jane A. Siegel. “Mothers in Trouble: Coping with Actual or Pending Separation from Children due to Incarceration.” *The Prison Journal* 90.4(2010): 447-474

<sup>233</sup> Katarzyna Celinska & Jane A. Siegel. “Mothers in Trouble: Coping with Actual or Pending Separation from Children due to Incarceration.” *The Prison Journal* 90.4(2010): 447-474

<sup>234</sup> Charlene Wear Simmons & Emily Danker-Feldman. “Parental Incarceration, Termination of Parental Rights and Adoption: A Case Study of the Intersection Between the Child Welfare and Criminal Justice Systems.” *Justice Policy Journal*, 7.2 (2010)p.29 [http://www.cjcj.org/files/Parental\\_Incarceration.pdf](http://www.cjcj.org/files/Parental_Incarceration.pdf) 07.11.2011

toward women who have no chance of maintaining contact with their child while they are incarcerated. It is, in many cases, not a question of neglect from the mother's side, but rather she has no choice. Terminating a mother's rights over her child is a drastic measure that can, in some instances, make matters worse when it comes to the mother's recovery. Recidivism rates show that women who are separated from their children are more likely to commit new crimes when they are out of prison. In addition, children who experienced the crucial bonding time with their mothers as infants are also less likely to engage in criminal activity when they grow up.

The women at CCCF all came from environments that were potentially very harmful for their babies. One can understand why DHS chose to terminate their parental rights. Although it is a drastic measure, the DHS and CPS do the difficult, but necessary, job of giving these lost children an actual chance at life. That is not to say that the foster care system is perfect. It can be potentially harmful if the child is not taken proper care of. Deborah Jiang Stein was born in the federal prison camp in Alderson, West Virginia, and she believes that the one year she spent there with her mother gave her a sense of security. The 2-3 years she spent in foster care did not. Stein explains:

Multiple broken attachments, from mother to foster care to adoption, shaped my early life as a timid and angry girl. That first year of attachment to my mother in prison saved me, I believe, because at least I bonded. Later, the movement and losses from mother to foster family to adoptive family took years for me to identify, then grieve and integrate. This is a lot for a child to metabolize.<sup>235</sup>

Lingering in the foster care system for years can have a damaging effect on the child's development, and the child may never establish secure attachments to a caregiver. At the age of 3-4, a loving, middle class family adopted Stein.<sup>236</sup> Her story is unique and sheds an

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<sup>235</sup> Corrections One "First Year of Life in Prison: An Interview with Deborah Jiang Stein." 19.11.2010 <http://www.correctionsone.com/news/2938581-First-year-of-life-in-prison/> 28.02.2012

<sup>236</sup> Deborah Jiang Stein. "Babies Behind Bars: Nurseries for Incarcerated Mothers and their Children." *Children's Voice* 19.4 (2010) <http://www.cwla.org/voice/JA10babies.html> 27.10.2011



important light on the trauma a life in the foster care system can inflict on a child. Stein explains:

“I believe that my year in prison as an infant contributed to my current sense of security. But it took decades to return to this feeling. The uprooting journey after prison, into foster care, and eventually to my final adoption around age 3 or 4 has taken years to settle in me. I was a girl, a teen, and a woman on edge for all of my life until recently. I found it next to impossible to reconcile my roots, for I've never met a peer with a story quite like mine.

The lingering questions for all children separated from their mothers, especially those born in prison, as they were for me, are simple ones: Am I still lovable? And, what's wrong with me? Those questions sit buried deep down in any child who comes through the foster care system. Inmates are an outcast class, by design cast out of society, so without the right support, it's natural for a child born inside to end up feeling outcast as well.”<sup>237</sup>

Stein highlights an important theme. Children born inside a prison may feel ashamed when they grow up, as if they, too, are responsible for their mother's mistake. Stein was also born addicted to heroin, as many prison babies are. Stein says it still affects her today:

Born heroin addicted, I'm told and read in prison files that in my first year, I displayed the usual problems of drug-exposed infants—sensory overload, and physical and emotional delays. It's taken a lifetime to rewire my brain, and I'm still learning how to manage some of these delays.<sup>238</sup>

Being adopted or placed in a permanent home right after birth can give babies the crucial bonding time they need. Lingering in the system, as Stein did, can in many cases be catastrophic for the child's well-being and sense of security. A prison nursery has several positive effects, on both mother and child, but the child is, in many cases, left to grow up with a mother who may or may not be able to take care of the child or herself. Every case is unique, and many formerly incarcerated mothers who have been involved in a prison nursery succeed with raising their child.

The crucial bonding time with their child is lost when female inmates do not have a prison nursery or community-based alternative in their state. Also, the majority of prisons in

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<sup>237</sup> Deborah Jiang Stein. “Babies Behind Bars: Nurseries for Incarcerated Mothers and their Children.” *Children's Voice* 19.4 (2010) <http://www.cwla.org/voice/JA10babies.html> 16.02.2012

<sup>238</sup> Corrections One “First Year of Life in Prison: An Interview with Deborah Jiang Stein.” 19.11.2010 <http://www.correctionsone.com/news/2938581-First-year-of-life-in-prison/> 28.02.2012

the United States do not have visitation programs that promote mother-child bonding, and they are usually located far away from the women's families, making it difficult for the child to visit and for the mothers to "develop and/or maintain relationships during their incarceration and in preparation for release."<sup>239</sup>

There are two sides of this extremely difficult ethical dilemma of what is best for the child, and what is best for the mother. If there is a prison nursery or another alternative to bond with the child, then that may be a good solution for both mother and child with regard to the child's development, the mother's self-esteem, and with regard to recidivism rates. If there is not that opportunity, then the mother might lose her parental rights and the child may be adopted, which, in some cases, is probably the best outcome for the child. The child's well-being, however, will always come before the mother's rights.

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<sup>239</sup> Deborah A. Bruns. "Promoting Mother-Child Relationships for Incarcerated Women and Their Children." *Infants & Young Children* 19.4(2006):308-322 p.317

## CHAPTER 4: HEALTH CARE IN AMERICAN PRISONS

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Access to health care in American correctional facilities varies greatly from state to state and from jails to prisons. American law dictates that every inmate has the right to adequate health care when needed. This has not always been the case. Before the 1970s, the medical conditions in American prisons were poor, at best. Stories of inmates operating on each other—pulling teeth, suturing, and surgery—came into the public eye in the 1970s.<sup>240</sup> It was the *Estelle vs. Gamble* case in 1976 that secured inmates’ constitutional rights to health care. J.W. Gamble, an inmate in Texas, sued the prison for neglect and mistreatment after he got a severe back injury while working in the prison.<sup>241</sup> The Supreme Court found that the Eighth Amendment (against cruel and unusual punishment) was being violated in that “deliberate indifference to ‘serious medical needs’ of prisoners constitutes the ‘unnecessary and wanton infliction of pain’.”<sup>242</sup> Since the *Estelle vs. Gamble* case, prisoners are entitled to three legal rights: “(1) the right of access to health care; (2) the right to care that is ordered, and (3) the right to a professional medical judgment.”<sup>243</sup> Even though correctional facilities are bound to follow these requirements, many have failed to do so.<sup>244</sup>

The health care provided in American prisons has fallen under hard scrutiny in the last decades. In 2005, Program Director and Medical Director for the San Francisco Public Health Department’s Jail Health Services, Dr. Joe Goldenson, testified to the Commission on Safety and Abuse in America’s Prisons. In his testimony, Goldenson uttered his concern when it

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<sup>240</sup> Craig Conway. “A Right of Access to Medical and Mental Health Care for the Incarcerated.” Health Law Perspectives, University of Houston Law Center 10.06.2009  
<http://www.law.uh.edu/healthlaw/perspectives/search3.asp> 17.01.2012 p.3

<sup>241</sup> Legal Information Institute. “*Estelle V. Gamble* (No.75-929)” Cornell University Law School.  
[http://www.law.cornell.edu/supct/html/historics/USSC\\_CR\\_0429\\_0097\\_ZO.html](http://www.law.cornell.edu/supct/html/historics/USSC_CR_0429_0097_ZO.html) 17.01.2012

<sup>242</sup> Craig Conway. “A Right of Access to Medical and Mental Health Care for the Incarcerated.” Health Law Perspectives, University of Houston Law Center 10.06.2009  
<http://www.law.uh.edu/healthlaw/perspectives/search3.asp> 17.01.2012

<sup>243</sup> William J. Rold, *30 Years After Estelle v. Gamble: A Legal Retrospective*, National Commission on Correctional Health Care. [http://www.ncchc.org/pubs/CC/legal\\_30years.html](http://www.ncchc.org/pubs/CC/legal_30years.html) 17.01.2012

<sup>244</sup> Craig Conway. “A Right of Access to Medical and Mental Health Care for the Incarcerated.” Health Law Perspectives, University of Houston Law Center 10.06.2009  
<http://www.law.uh.edu/healthlaw/perspectives/search3.asp> 21.02.2012

came to the lack of medical assistance in correctional facilities across the country. He brought to light several deficiencies:

“[I]lack of timely access to routine, specialty, and emergency care; lack of chronic care programs; incompetent and inadequate care; and deficient medical records systems are common problems.”<sup>245</sup>

Many of the problems Goldenson mentioned are, in many cases, due to overcrowded and understaffed prisons, as well as poor access to resources. Although these people have committed crimes, their right to health care should not be taken for granted. The National Commission on Correctional Health Care sets the guidelines correctional facilities across the country are to follow. The Commission proclaims that “with support from the major national organizations representing the fields of health, law and corrections, NCCHC’s leadership in setting standards for health services is widely recognized.”<sup>246</sup> Its goal is to better the medical and mental conditions in jails and prisons. In a depressed economy, however, and with an increase in HIV-positive inmates as well as a rise in mental illness among prisoners, several state governments have turned to the privatization of jail and prison health care.<sup>247</sup> States such as Alabama, Connecticut, Delaware, Georgia, Maryland, Massachusetts, Minnesota, Missouri, New Hampshire, New Mexico, New York, Pennsylvania, Tennessee, Texas, Utah, Ohio, Louisiana, Colorado, Indiana, Florida, Illinois, Alaska, Mississippi, Kansas, Nevada and Virginia are among those states.<sup>248</sup> There are several companies responsible for delivering health care to inmates across the country. Wexford Health Sources, Correctional Healthcare

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<sup>245</sup>Craig Conway. “A Right of Access to Medical and Mental Health Care for the Incarcerated.” Health Law Perspectives, University of Houston Law Center 10.06.2009 p.3  
<http://www.law.uh.edu/healthlaw/perspectives/search3.asp> 17.01.2012

<sup>246</sup>National Commission on Correctional Health Care. <http://www.ncchc.org/> 19.01.2012

<sup>247</sup>Paul von Zielbauer. “Harsh Medicine: As Health Care in Jails Goes Private, 10 Days Can Be a Death Sentence.” The New York Times, 27.02.2005. <http://www.nytimes.com/2005/02/27/nyregion/27jail.html> 19.01.2012

<sup>248</sup>Yana Kunichoff. “Private Prison Health-Care Industry Grows as States Cut Costs.” The Minnesota Independent, 19.10.2011 <http://minnesotaindependent.com/90286/private-prison-health-care-industry-grows-as-states-cut-costs> 21.02.2012

Companies (CHS), and PHS Correctional Healthcare (merged with Corizon Healthcare in 2006) are some of the major players in the field.

PHS came under hard scrutiny in 2005 when The New York Times published a series called “Hard Medicine.” It was revealed that PHS had employed unqualified medical personnel, given nurses tasks beyond their qualifications, and forgotten to give inmates their much needed medication, all in which resulted in deaths and suicides.<sup>249</sup> Although the company lost some of its contracts after complaints and lawsuits, PHS merged with Corizon in 2006 and has become the biggest health care provider in the correctional system. Corizon serves more than 400 correctional facilities across the country.<sup>250</sup> In 2005, the company said that most prisons and jails, in which they served, were pleased with their services, and company chairman at the time, Michael Catalano, said that, “What we do is provide a public health service that many others are unable or unwilling to do.”<sup>251</sup> The business Catalano is referring to is actually a billion-dollar industry, thus a quite lucrative one at that.<sup>252</sup> When it comes to federal prisons, The Federal Bureau of Prisons do outsource some health care programs in their prisons to private companies, but the overall responsibility lies with the Bureau.<sup>253</sup>

The majority of health care provided in American prisons is often privatized, which can lead to inadequate care for many inmates. Not all states have joined the trend of outsourcing, but that does not mean that the health care provided by the state is superior to private organizations’ medical competence. However, an increase in lawsuits filed by prisoners in facilities with managed care is an indication that the quality of health care is

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<sup>249</sup> Paul von Zielbauer. “Harsh Medicine: As Health Care in Jails Goes Private, 10 Days Can Be a Death Sentence.” The New York Times, 27.02.2005. <http://www.nytimes.com/2005/02/27/nyregion/27jail.html> 19.01.2012

<sup>250</sup> Corizon Correctional Health Care. <http://www.phscorrections.com/About-Corizon/Locations/> 21.02.2012

<sup>251</sup> <http://www.nytimes.com/2005/02/27/nyregion/27jail.html> 19.01.2012

<sup>252</sup> Yana Kunichoff. “Private Prison Health-Care Industry Grows as States Cut Costs.” The Minnesota Independent, 19.10.2011 <http://minnesotaindependent.com/90286/private-prison-health-care-industry-grows-as-states-cut-costs> 21.02.2012

<sup>253</sup> <http://minnesotaindependent.com/90286/private-prison-health-care-industry-grows-as-states-cut-costs> 21.02.2012

questionable.<sup>254</sup> For female inmates, for instance, the need for care when pregnant is crucial. For those incarcerated in a state where prison nurseries are available, the prenatal care is in many cases impeccable. For other mothers-to-be, the health care is in many cases inadequate. This chapter will look at the health care provided to pregnant prisoners, their rights, and the practice of shackling during labor.

#### **4.1.0 Health Care in Women's Prisons**

Although the number of female offenders has skyrocketed the last decade, they constitute a minor population compared to the male prison population. Male prisons are usually bigger and have an infirmary on prison grounds. Infirmarys and/or extensive medical care are often rare in women's prisons, as they tend to be smaller than male prisons, and they are in many cases located in rural areas, far away from the nearest hospital. Female prisoners' appointments with physicians can therefore be limited.<sup>255</sup> It is also a concern that one in five prisons does not have gynecological/obstetrical services available to its inmates but once a week when women are often in need of gynecological assistance.<sup>256</sup> Medical attention related to sexually transmitted diseases, menstrual issues, prenatal and postpartum care, and cancer examinations are examples of important gynecological care. Moreover, incarcerated women who had experienced rape before the age of 17 "were six times as likely as those who didn't to exhibit cervical dysplasia."<sup>257</sup> The number of female prisoners who are HIV positive is also high. In 1997, 3.5 percent tested positive, and medication is not always adequate.<sup>258</sup> Many of the women in prison have a history of prostitution, drug abuse, and physical abuse, which can lead to an increased need for care when they are behind bars. For pregnant inmates, the need for prenatal care is crucial.

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<sup>254</sup> Natalia D. Tapia and Michael S. Vaughn. "Legal Issue Regarding Medical Care for Pregnant Inmates." *The Prison Journal* 90.4 (2010): 417-446

<sup>255</sup> Joanne Belknap. *The Invisible Woman: Gender, Crime, and Justice* (2001)

<sup>256</sup> Joanne Belknap. *The Invisible Woman: Gender, Crime, and Justice* (2001)

<sup>257</sup> Joanne Belknap. *The Invisible Woman: Gender, Crime, and Justice*. (2001)p.183

<sup>258</sup> Joanne Belknap. *The Invisible Woman: Gender, Crime, and Justice*. (2001)

#### 4.1.1 Pregnant Inmates' Rights to Health Care

The National Commission on Correctional Health Care (NCCHC), an independent, non-profit organization dedicated to help prisoners, states that “[p]regnant inmates receive timely and appropriate prenatal care, specialized obstetrical services when indicated, and postpartum care.”<sup>259</sup> All correctional facilities in the country are to follow certain standards:

- Prenatal medical examinations
- Prenatal laboratory and diagnostic tests, including HIV testing and prophylaxis when indicated
- Advising inmates on levels of activity and safety precautions during pregnancy
- Prenatal nutritional guidance and counseling
- Maintaining a list of specialized obstetrical services
- Written agreement with a community facility for delivery
- Documented, appropriate postnatal care
- Keeping a list of all pregnancies and their outcomes
- Having a written policy and defined procedures addressing compliance with this standard<sup>260</sup>

NCCHC require correctional facilities to offer pregnant inmates counseling and help with regard to their pregnancy. Issues like abortion and adoption are concerns that these women need to address. Not all facilities are able to follow the requirements set forth by the NCCHC. A national survey on women's prisons reported that “(1) less than half provided prenatal care; (2) only 15 percent provided counseling to help mothers find suitable placement for the infant after birth; and (3) only 11 percent provided postnatal counseling.”<sup>261</sup> The prisons in question responded with several problems that the survey failed to address: “(1) inadequate resources for false labors, premature births, and miscarriages; (2) a lack of maternity clothes; (3) a requirement for prisoners in labor to wear belly chains on the way to the hospital; and (4) the

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<sup>259</sup> American Civil Liberties Union. “State Standards for Pregnancy-Related Health Care and Abortion for Women in Prison – Map.” <http://www.aclu.org/state-standards-pregnancy-related-health-care-and-abortion-women-prison-map#2> 19.01.2012

<sup>260</sup> American Civil Liberties Union. “State Standards for Pregnancy-Related Health Care and Abortion for Women in Prison – Map.” <http://www.aclu.org/state-standards-pregnancy-related-health-care-and-abortion-women-prison-map#2> 19.01.2012

<sup>261</sup> Joanne Belknap. *The Invisible Woman: Gender, Crime, and Justice*. (2001) p.184

housing of minimum security pregnant women in maximum security prisons.”<sup>262</sup>

Furthermore, a study done by the government found that “about half of those pregnant when jailed and four-fifths of those pregnant when admitted to state prisons receive prenatal care.”<sup>263</sup> The quality of the care, however, was not mentioned in detail. Another report found that women who returned back to prison after giving birth were not given the proper medications to stop their production of breast milk. Consequently, many suffered from breast infections, and it also “increased their sense of loss and depression”<sup>264</sup> from having to give up their newborn.

Being pregnant in prison takes a toll on the women, both mentally and physically. The hardships faced by some of these women are horrid. Pregnant inmates giving birth alone in their cells are not unique. Many pregnant inmates are not taken to the hospital in time for delivery, even though they have informed staff that they are in labor. Thus they are forced to give birth in front of their cellmate and/or prison guards.<sup>265</sup> There are also incidents where pregnant prisoners are not taken seriously when it comes to abdominal pain or other inconsistencies with regard to their pregnancy, which consequently has led to stillbirths. At Collier County Jail in Florida, a 22-year-old inmate had been leaking amniotic fluid for over two weeks and had repeatedly tried to seek medical attention but without luck. When she finally got to a physician, she was informed that there was no amniotic fluid left in her uterus and that her fetus’ skull had collapsed. Not only was her baby dead, the prison also delayed her delivery, which could expose her to septic shock. They also failed to give her a necessary shot after the birth due to her RH-negative blood type, which can complicate future

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<sup>262</sup> Joanne Belknap. *The Invisible Woman: Gender, Crime, and Justice* (2001) p.184

<sup>263</sup> Joanne Belknap. *The Invisible Woman: Gender, Crime, and Justice* (2001) p.184

<sup>264</sup> Joanne Belknap. *The Invisible Woman: Gender, Crime, and Justice* (2001) p.184

<sup>265</sup> Rachel Roth. “Pregnant, in Prison and Denied Care.” *Women + Prison: A site for Resistance*.  
[http://womenandprison.org/motherhood/view/pregnant\\_in\\_prison\\_and\\_denied\\_care/](http://womenandprison.org/motherhood/view/pregnant_in_prison_and_denied_care/) 24.01.2012



pregnancies.<sup>266</sup> Furthermore, at Maricopa County jail in Arizona, a pregnant inmate was punched in the stomach by two other inmates. She was denied access to the infirmary after the incident. Three days later, she was finally brought to the hospital due to heavy bleeding. There she was informed she had lost the baby and had to return for a check-up. The jail did not send her back for her check-up until three weeks later when she was bleeding so much that she needed a blood transfusion and a medical procedure to remove the remains of her fetus.<sup>267</sup> There are several other stories like these, but because of the law that says Institutions of Confinements do not need to report pregnancy outcomes among their inmates, most of the stories are told through inmates themselves or through researchers or the media.<sup>268</sup> With more than 30-years experience in the field, National Prison Project director Elizabeth Alexander says “in virtually every case that I have handled involving health care claims of women, I have found women who lost their pregnancies or newborns due to the prison’s atrocious neglect.”<sup>269</sup> Roth also says that the trend of outsourcing health care services to private, for-profit organizations is not helping to improve the medical care in prison. It is also harder for inmates to file lawsuits in federal court due to the Prison Litigation Reform Act (PLRA) from 1996. All lawsuits must first go through the grievance system of the prison/jail, which can make quite a paper mill.<sup>270</sup> Although the litigation process is hard for pregnant prisoners, they do have certain rights under Title 42 U.S.C. Section 1983 (Civil Action for Deprivation of Rights).<sup>271</sup>

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<sup>266</sup> Rachel Roth. “Pregnant, in Prison and Denied Care.” Women + Prison: A site for Resistance. [http://womenandprison.org/motherhood/view/pregnant\\_in\\_prison\\_and\\_denied\\_care/](http://womenandprison.org/motherhood/view/pregnant_in_prison_and_denied_care/) 24.01.2012

<sup>267</sup> Rachel Roth. “Pregnant, in Prison and Denied Care.” Women + Prison: A site for Resistance. [http://womenandprison.org/motherhood/view/pregnant\\_in\\_prison\\_and\\_denied\\_care/](http://womenandprison.org/motherhood/view/pregnant_in_prison_and_denied_care/) 24.01.2012

<sup>268</sup> Rachel Roth. “Pregnant, in Prison and Denied Care.” Women + Prison: A site for Resistance. [http://womenandprison.org/motherhood/view/pregnant\\_in\\_prison\\_and\\_denied\\_care/](http://womenandprison.org/motherhood/view/pregnant_in_prison_and_denied_care/) 24.01.2012

<sup>269</sup> Rachel Roth. “Pregnant, in Prison and Denied Care.” Women + Prison: A site for Resistance. [http://womenandprison.org/motherhood/view/pregnant\\_in\\_prison\\_and\\_denied\\_care/](http://womenandprison.org/motherhood/view/pregnant_in_prison_and_denied_care/) 24.01.2012

<sup>270</sup> Rachel Roth. “Pregnant, in Prison and Denied Care.” Women + Prison: A site for Resistance. [http://womenandprison.org/motherhood/view/pregnant\\_in\\_prison\\_and\\_denied\\_care/](http://womenandprison.org/motherhood/view/pregnant_in_prison_and_denied_care/) 24.01.2012

<sup>271</sup> Legal Information Institute. “Title 42 U.S.C. Section 1983.” Cornell University Law School. <http://www.law.cornell.edu/uscode/42/1983.shtml> 29.01.2012

There have been several lawsuits over the years under Title 42 U.S.C. Section 1983 from pregnant inmates who have not been given the health care they are entitled to. The health care provided to inmates is to be adequate, which means that “correctional medical officials are not required to adhere to professional standards of care commonly practiced in the wider medical profession; prison officials must provide reasonable care to avoid liability.”<sup>272</sup> However, in many of the lawsuits where the plaintiffs have won, the results of prison staffs’ neglect have had disastrous consequences—babies have been born premature and unhealthy, and in some cases the babies have died. More often than not, the cases with the most horrific outcomes have happened in jails. So called “cherry picking” is a phrase that is used when jail officials try to avoid paying for emergency medical costs for women who are in their custody for only a short time.<sup>273</sup> In *Boswell v. County of Sherburne* (1988), the “cherry-picking” concept led an inmate (Boswell) to give birth 3.5 months before her due date. Her baby died at the hospital. Boswell’s story unfolded like this:

“...Boswell was arrested for DUI and taken to jail. After midnight, Boswell was booked by jailer Valerie Lero, who learned that Boswell was 6.5 months pregnant and was having a problem pregnancy. Boswell told officer Lero that she was under the care of a physician and gave Lero her doctor’s phone number. While showering, Boswell discovered that she was bleeding. She immediately informed Lero. Lero gave Boswell sanitary pads before locking her into a cell for the night but made no attempt to contact Boswell’s physician or any other trained medical personnel. Lero did not record Boswell’s bleeding in her log and neglected to communicate any of the information she had concerning Boswell’s medical condition to the next jailer, Nancy Riecken, who relieved Lero at 6:00 a.m. About 7:00 a.m., Boswell called officer Riecken, telling her she was cramping, bleeding, and in pain. She asked Riecken to get her a doctor. Riecken refused, and told Boswell that she would not be released until she posted bail. Boswell’s pain and bleeding became worse. When she went to the bathroom, she realized she had passed some blood clots and saved them to prove to Riecken that she needed immediate medical attention. As her cramps intensified, she pounded on the cell door for help. When Riecken responded, Boswell showed her the clots and a bloody sanitary pad. Boswell again requested medical help. Riecken continued to insist that Boswell post bail before she could be released. Riecken’s only concession was to permit Boswell to phone her mother-in-law and told her to lie down and put her feet up, because nothing else could be done until her family arrived with the bail money. At about 10:00 a.m. that morning, a local police officer, Thomas Tyler, stopped by the jail. Riecken questioned Tyler, an emergency medical technician, about the signs of miscarriage. When Tyler showed surprise at these questions, Riecken mentioned Boswell. Tyler then offered to look at Boswell. As he walked down the corridor toward her cell, he could hear her cries, which were “quite loud.” Tyler found Boswell bleeding and in considerable pain. After a brief examination, Tyler instructed Riecken to call an

<sup>272</sup> Natalia D. Tapia and Michael S. Vaughn. “Legal Issue Regarding Medical Care for Pregnant Inmates.” *The Prison Journal* 90.4 (2010):417-446 p.422

<sup>273</sup> Natalia D. Tapia and Michael S. Vaughn. “Legal Issue Regarding Medical Care for Pregnant Inmates.” *The Prison Journal* 90.4 (2010):417-446

ambulance. As Boswell was being transferred by ambulance to the hospital, she began giving birth. Her baby, Joseph Boswell, was born at the hospital, where he died 34 min later.”<sup>274</sup>

Boswell sued the jail under 42 U.S.C. § 1983, claiming that she was not given emergency medical treatment before she had posted bail. The U.S. Court of Appeals for the Eighth Circuit found that Boswell had repeatedly informed the jail staff about her condition “to defeat summary judgment on their qualified immunity claims.”<sup>275</sup> Boswell’s story highlights the problem of correctional facilities trying to avoid the economic responsibility of emergency care for inmates who are not long-term prisoners. It is also said that among some prison cultures, correctional officers are told not to take female offenders concerns about their health too seriously. According to Professors Natalia D. Tapia and Michael S. Vaughn, women prisoners often fake an illness to get attention, and they are, more often than not, manipulative and deceitful.<sup>276</sup> This belief makes them doubt the prisoner’s illness, and this doubt can lead to severe consequences. *Staten v. Lackawanna County* (2008) was on of those cases where pregnant inmate, Staten, was ignored by correctional officers, despite her attempts to get their attention:

“...she was 6 months pregnant and she advised medical staff that she was a high-risk pregnancy. On July 8, 2007, plaintiff complained of pressure in her pelvic area and was taken to the medical ward for an evaluation. Medical staff informed her that the pressure she was feeling was normal and placed her back in the general population. Late on July 9, 2007, plaintiff again began experiencing pain and as it persisted, she informed a corrections officer that she thought she was in labor. The correctional officer took her to the medical ward, where she was attended to by defendant Nurse Jane Doe. Nurse Jane Doe felt her stomach, took her blood pressure, and directed the corrections officer to time and document her contractions. Plaintiff remained in the medical ward for 1 hour, whereby Nurse Jane Doe advised plaintiff that she did not believe that plaintiff was in labor, because her contractions were not consistent enough. Plaintiff replied that she was in labor and requested to be taken to a hospital. Nurse Jane Doe then sent plaintiff to a camera cell where she could be monitored. She continued to experience pain and pleaded to be taken to the hospital. At some point, her water broke and she informed prison staff. Defendant correctional officers ignored her and informed her she would have to stay in the cell. Plaintiff then felt the baby “crown” and went to the door to plead for help. Once at the door, she found that it was open and she crawled into the walkway adjacent to the cell. She was then carried back into the cell by the defendant correctional officers. She advised the defendant correctional officers that the baby had “crowned” but nothing was done. The baby’s head began to emerge and still nothing was done. Finally,

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<sup>274</sup> Natalia D. Tapia and Michael S. Vaughn. “Legal Issue Regarding Medical Care for Pregnant Inmates.” *The Prison Journal* 90.4 (2010):417-446 p.428

<sup>275</sup> Natalia D. Tapia and Michael S. Vaughn. “Legal Issue Regarding Medical Care for Pregnant Inmates.” *The Prison Journal* 90.4 (2010):417-446 p.429

<sup>276</sup> Natalia D. Tapia and Michael S. Vaughn. “Legal Issue Regarding Medical Care for Pregnant Inmates.” *The Prison Journal* 90.4 (2010):417-446

she stood and pleaded at the cell door and at that time, she gave birth to Samiyah Staten, who fell from plaintiff to the floor of the cell.”<sup>277</sup>

Staten’s story reveals the indifference the prison staff showed to her complaints. This deliberate indifference led Staten to file a lawsuit against the prison in which she won. Another inmate gave birth alone in solitary confinement. After the birth, the inmate was badmouthed and ignored by guards. They said she “had pushed out that baby on purpose, just to get out of segregation.”<sup>278</sup> These are only a few stories of neglect and mistreatment, but it clearly reveals that pregnant inmates can be treated harshly and often much harsher than non-pregnant inmates.<sup>279</sup> It is important to mention, however, that most of the lawsuits pursuant to Title 42 U.S.C. Section 1983 are primary filed by pregnant inmates in jails and not prisons.

## **4.2 Pregnancy Outcomes for Incarcerated Women**

One would think that being pregnant in prison would have a negative effect on the fetus: stress, loneliness, and for many, detoxification cannot be favorable for any pregnant woman. Most studies, however, document better outcomes for pregnancies managed behind prison walls than for women of the same socioeconomic status out in the community.<sup>280</sup> Being in prison might give many of these women a sense of structure. Regular meals, exercise, sleep and prenatal care gives them a structure that helps them keep their baby healthy. There is little information regarding the care that pregnant drug addicts receive once they are in the system. The little information that does exist gives the impression that the detoxification process in most prisons includes counseling and rehabilitation programs. Medication, such as methadone, is rarely mentioned. When inside prison walls, the women do not have the

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<sup>277</sup> Natalia D. Tapia and Michael S. Vaughn. “Legal Issue Regarding Medical Care for Pregnant Inmates.” *The Prison Journal* 90.4 (2010):417-446 p.435-436

<sup>278</sup> Natalia D. Tapia and Michael S. Vaughn. “Legal Issue Regarding Medical Care for Pregnant Inmates.” *The Prison Journal* 90.4(2010): 417-446 p.434

<sup>279</sup> Natalia D. Tapia and Michael S. Vaughn. “Legal Issue Regarding Medical Care for Pregnant Inmates.” *The Prison Journal* 90.4(2010): 417-446

<sup>280</sup> M Knight and E Plugge. “The Outcomes of Pregnancy among Imprisoned Women: A Systematic Review.” *Bjog-An International Journal of Obstetrics and Gynecology* 112.11(2005): 1467-1474; Martin, S.L., et al. “The Effect of Incarceration During Pregnancy on Birth Outcomes.” *Public Health Reports* 112.4(1997):340-346

opportunity to fuel their addiction, thus not harming the fetus. However, there are incidents where pregnant inmates have received methadone treatment during their pregnancies and where the baby had to be given morphine and Phenobarbital-supplemented care for weeks in order to control neonatal abstinence syndrome.<sup>281</sup> For many, the drug use can have a profound effect on the fetus and can lead to miscarriage, preeclampsia, preterm birth, and low birth weight infants.<sup>282</sup> It is the prison's medical staff and the hospital in which the women are to give birth that have the responsibility to follow the prenatal care requirements set forth by the NCCHC. Although prenatal care should be the same in every correctional facility across the country, it varies. Prisons that have nurseries seem to be above average when it comes to taking care of their pregnant inmates. Indiana Women's Prison in Indianapolis is one of them.

At Indiana Women's Prison (IWP) pregnant inmates can petition for a spot at the Wee Ones Nursery. There are only 10 coveted spots in the nursery, and the maximum-security prison holds more than 600 inmates, and among those, 20-35 are pregnant at any given time,<sup>283</sup> which makes competition high. In The Learning Channel's documentary *Babies Behind Bars*, we are introduced to several of the pregnant inmates at IWP. Bobbi Brush is one of them. She is sentenced to 18 months for theft. Bobbi is a crack and methamphetamine addict, and she is pregnant for the 6<sup>th</sup> time. Three of her other children are adopted and two are with relatives. She arrived at IWP when she was in her third trimester, and she was lucky to get a spot at the nursery, with the only criteria that her newborn child was healthy. Bobbi hopes that she can bond better with this child than her other children, who she had when she was high on drugs. She says that "she is not a bad mother, only that she made bad choices."<sup>284</sup> Another inmate, Heather Laster, has some of the same trades as Bobbi. Laster is incarcerated

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<sup>281</sup> Jennifer Clarke and Eli Adashi." Perinatal Care for Incarcerated Patients: A 25-Year-Old Woman Pregnant in Jail." *Jama-Journal of the American Medical Association* 305.9(2011): 923-929

<sup>282</sup> Clarke, Jennifer. Adashi, Eli." Perinatal Care for Incarcerated Patients A 25-Year-Old Woman Pregnant in Jail." *Jama-Journal of the American Medical Association* 305.9(2011): 923-929

<sup>283</sup> Richard Tanner. "Pregnancy Outcomes at the Indiana Women's Prison." *Journal of Correctional Health Care* 16.3 (2010):216-219

<sup>284</sup> *Babies Behind Bars*. TLC (2011)

for 2 years due to theft and prostitution and is pregnant with her 8<sup>th</sup> child. She has been in and out of prison her whole life, and this is her third pregnancy behind bars. She gave birth to her first set of twins when she was only 11 and has had 5 more after that. The whereabouts of her first children is not mentioned, but two of her youngest are cared for by Laster's mother. The fathers of these children are also behind bars, and are, according to Laster, staying incarcerated for a very long time. Although Laster wanted a spot at the nursery, she is not eligible to participate due to a juvenile battery committed 20 years ago when Laster got into a fight in elementary school. She will have to give up her baby but hopes to reunite with her child when she is released.<sup>285</sup> An Amish family, which takes care of babies of incarcerated women, will raise Laster's newborn daughter until she is released from prison.<sup>286</sup> The best outcome for the child would most likely be to stay with the Amish family, as Laster's track record is not very uplifting. Both Brush and Laster seem to believe that they are fit mothers, despite the fact they have several children scattered around in the foster care system and with relatives. It is questionable whether or not a prison nursery can make them into better mothers and ultimately better citizens. It may seem as though the two repeat-offenders view the nursery as an easy way of doing their time rather than getting the crucial bonding time with their babies.

For first-time offenders, like Donna Jones and Rebecca Carey, being pregnant in prison is much tougher than for "veterans" like Laster and Brush. Jones, who is only 8 weeks pregnant, is sentenced to 3 years for common nuisance and drug possession. Carey, a methamphetamine addict and in her third trimester, is sentenced to 18 months for drug possession. Both Jones and Carey are in for minor offenses, but since they are pregnant, these small crimes have big consequences. Carey gets a spot in the nursery, while Jones is denied due to a violent offense on record. Jones is able to overturn the prison decision, however, to

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<sup>285</sup> *Babies Behind Bars*. TLC (2011)

<sup>286</sup> *Babies Behind Bars*. TLC (2011)

keep her baby with her in prison. The father of her child is also incarcerated. Both women are in their early twenties and the programs offered to them in the prison might help them stay on track once they get out. Parenting classes, chemical dependency classes and so forth are some of the most helpful for these new and expectant mothers in the prison.

Medical Director at Indiana Women's Prison (IWP), Richard Tanner, says that offenders like Bobbi Brush and Heather Laster are "typical for IWP with numerous social problems, chemical dependency problems, all kids divided up in different homes and so forth."<sup>287</sup> Tanner continues by saying that "a lot of these children don't have a great chance in life because their mother's aren't taking care of themselves, and they are not doing the stuff that they need to be doing."<sup>288</sup> On the effects of the Wee Ones Nursery, Tanner makes the point that, "if one program can succeed and help them bond and change them, then maybe it is worth it."<sup>289</sup> Doug Garrison, Chief Communications Officer at Indiana Department of Corrections, supports Tanner by saying that if the program makes pregnant inmates "better mothers/citizens when they leave, then we have done something right. If the rates for re-incarceration are lower for women who have gone through this program and the rates for criminal activity by their children in 5,10,15 or 20 years are lower, then we know we have done something right."<sup>290</sup> Both Tanner and Garrison look at the prison nursery as something that can help break the bad cycle that many of these women are in. The health effects for pregnant inmates are also positive.

Dr. Tanner published an article called "Pregnancy Outcomes at the Indiana Women's Prison" in 2010, where he discusses the positive effects incarceration has on the health of both mother and child. At IWP most of the pregnant inmates are white (64%) followed by black inmates (33%). The majority of these women are between 20-30 years of age (75%), 23% of

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<sup>287</sup> *Babies Behind Bars*. TLC (2011)

<sup>288</sup> *Babies Behind Bars*. TLC (2011)

<sup>289</sup> *Babies Behind Bars*. TLC (2011)

<sup>290</sup> *Babies Behind Bars*. TLC (2011)

them are over 30, and only 2% are under the age of 20. Data also shows that 8% of these women have given birth more than once while incarcerated at IWP.<sup>291</sup> When it comes to medication due to drug abuse, only 1% have given birth on methadone for opium addiction.<sup>292</sup> Furthermore, Dr. Tanner found that the birth weight at IWP was better than the national average. At IWP, only 5,5% of the infants weighed under 5 pounds and 8 ounces (2500g), which is considered to be low birth weight in the United States. On a national average, 7-8% of infants are born underweight.<sup>293</sup> The few women at IWP that had low birth weight babies had not been incarcerated long and thus had not received prenatal care. Tanner found that only 2% of pregnant inmates who had received prenatal care for more than 1 month had low birth weight babies.<sup>294</sup> Around 30% of the inmates at IWP undergo a C-section, which correlates with the national average.<sup>295</sup> When it comes to complications during and after birth, Tanner found that of the last 200 women giving birth while incarcerated at IWP, only 19 of them experienced complications:

“Five of these inmates developed preeclampsia, two had abruptio placentae, two had postpartum eclampsia, one had eclampsia, four had C-section incisions that got infected, one had significant maternal hypertension leading to fetal distress and a mid-trimester delivery, two had gestational diabetes, and two had premature rupture of membranes.”<sup>296</sup>

Doctor Tanner makes it clear in his article that pregnant offenders are far better off being incarcerated for the time they are with child than exposing themselves and their unborn babies to their chaotic environment outside of prison. Data shows that the longer the woman has been incarcerated, the better the birth weight of the baby. Prenatal care, exercise, regular

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<sup>291</sup> Richard Tanner. “Pregnancy Outcomes at the Indiana Women's Prison.” *Journal of Correctional Health Care* 16.3(2010):216-219

<sup>292</sup> Richard Tanner. “Pregnancy Outcomes at the Indiana Women's Prison.” *Journal of Correctional Health Care* 16.3(2010):216-219

<sup>293</sup> Richard Tanner. “Pregnancy Outcomes at the Indiana Women's Prison.” *Journal of Correctional Health Care* 16.3(2010):216-219

<sup>294</sup> Richard Tanner. “Pregnancy Outcomes at the Indiana Women's Prison.” *Journal of Correctional Health Care* 16.3(2010):216-219

<sup>295</sup> Richard Tanner. “Pregnancy Outcomes at the Indiana Women's Prison.” *Journal of Correctional Health Care* 16.3(2010):216-219

<sup>296</sup> Richard Tanner. “Pregnancy Outcomes at the Indiana Women's Prison.” *Journal of Correctional Health Care* 16.3(2010):216-219 p.218-219



meals, and no drugs help these women to have a less complicated birth and a healthier baby. Some of the women who have been released prior to giving birth have been high on drugs when arriving at the hospital. IWP has also experienced releasing pregnant inmates who have been re-incarcerated shortly after release due to a new offense.<sup>297</sup> The structure that a prison can provide for these pregnant inmates is crucial in order to keep the babies healthy before birth. The IWP and the Wee Ones Nursery seem to be doing a good job at that.

The correlation between the time a pregnant inmate stays behind bars and the health outcome of her child have also been documented by other physicians and researchers. For instance, research published in *Obstetrics and Gynecology*, called “Duration of Incarceration and Perinatal Outcome,” found that women who received prenatal care for a longer period of time while incarcerated gave birth to healthier children than those who were only incarcerated for a short time during their pregnancy. The research looked at the perinatal outcome of 53 pregnant women who were in prison for less than 90 days (short-term incarceration) and the same for another group of 53 women who were incarcerated for more than 120 days (long-term incarceration). Not surprisingly, the women who were released from prison early exposed themselves to drugs, poor nutrition, and little, if any, prenatal care, which resulted in 32 (60%) normal births, 4 stillborn, eight premature, six small for gestational age, and four were born septic. In other words, these women have a higher risk of being exposed to perinatal mortality and morbidity.<sup>298</sup> For the women who were incarcerated longer, and thus received better prenatal care, good nutrition, and were not exposed to drugs, gave birth to 48 (91%) normal infants.<sup>299</sup> A structured environment like the one you might find in a prison, away from the chaotic world that many of these women come from, seems to be more

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<sup>297</sup> Richard Tanner. “Pregnancy Outcomes at the Indiana Women's Prison.” *Journal of Correctional Health Care* 16.3(2010):216-219

<sup>298</sup> L. Cordero, et al. “Duration of Incarceration and Perinatal Outcome.” *Obstetrics and Gynecology* 78.4(1991):641-645

<sup>299</sup> L. Cordero, et al. “Duration of Incarceration and Perinatal Outcome.” *Obstetrics and Gynecology* 78.4(1991):641-645

beneficial for the pregnancy than being pregnant outside of prison. A study conducted on pregnant inmates in Texas, however, found that the effect of imprisonment on the birth weight was primarily only positive for those who were incarcerated from their 1<sup>st</sup> trimester.<sup>300</sup> It is in the 1<sup>st</sup> trimester that the infant develops all its vital organs, and thus it is essential that the mother stays healthy in this period. These studies, however, do not imply that prisons are the optimal place to be pregnant, but rather that the women in question have a poor pre-incarceration environment.

### **4.3 The Practice of Shackling before, during, and after Childbirth.**

Imagine giving birth while chained to a bed and with no family members present. This is the reality for many imprisoned women in the United States. The practice of shackling refers to the “use of restraints anywhere on a pregnant prisoner’s body, from binding her hands and feet to chaining her abdomen. Pregnant prisoners’ arms and legs are usually shackled with metal handcuffs during transportation, then cuffed directly to their hospital bed by an arm and a leg in the delivery room.”<sup>301</sup> The use of such restraints has been hotly debated in the United States and has led several states to ban the practice. Lawsuits have also been filed claiming that the policy of shackling pregnant women is unconstitutional, in violation of the Eighth Amendment proscription against cruel and unusual punishment. The American Public Health Association (APHA), which “is the oldest national organization of public health professionals,”<sup>302</sup> has for years been working to improve inmates’ health care. APHA correlates with the standards set forth by NCCHC, but they also address the issue of shackling. The Association clearly states that they are against shackling during labor and

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<sup>300</sup> David Howard, et al. “Maternal Incarceration During Pregnancy and Infant Birthweight.” *Maternal and Child Health Journal* 15.4 (2011): 478-486

<sup>301</sup> Alex Berg. “Stop Shackling Pregnant Prisoners.” *The Daily Beast*, 04.09.2011.  
<http://www.thedailybeast.com/articles/2011/09/04/stop-shackling-pregnant-prisoners-new-push-to-ban-controversial-practice.html> 30.01.2012

<sup>302</sup> American Civil Liberties Union. “State Standards for Pregnancy-Related Health Care and Abortion for Women in Prison – Map.” <http://www.aclu.org/state-standards-pregnancy-related-health-care-and-abortion-women-prison-map#2> 19.01.2012

delivery.<sup>303</sup> Despite the recommendations set forth by APHA and the legal debates surrounding this topic, only 14 states, as well as the Federal Bureau of Prisons, have policies regulating the use of shackling.<sup>304</sup> In California, Colorado, Hawaii, Idaho, Illinois, New Mexico, New York, Nevada, Pennsylvania, Rhode Island, Texas, Vermont, Washington, and West Virginia shackling during delivery is strictly forbidden. Some of these states have also extended the law to ban shackling during transportation and labor as well.<sup>305</sup>

The health risks to both mother and child due to the practice can be severe. Maureen Phipps, Associate Professor of Obstetrics and Gynecology at Brown University, says that “it’s vital for a woman to move around early in labor to appease pain and expedite delivery. Should an emergency arise, including the need for a cesarean section, precious seconds are lost uncuffing a woman, potentially preventing a doctor from delivering necessary care.”<sup>306</sup> Furthermore, Tina Cassidy, a maternal-health advocate informs that “anyone who has had a baby knows it’s almost impossible to sit still. So, depending on how the woman is shackled, it’s incredibly debilitating. If her feet are shackled—if she’s forced to stay on her back—it can put stress on the baby’s heart.”<sup>307</sup> Shawanna Nelson is one of many pregnant inmates who experienced giving birth in shackles. Nelson, an inmate at Arkansas Department of Corrections, was 5-and-half months pregnant and serving a 6-year sentence for passing bad checks. Nelson recounts her delivery:

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<sup>303</sup> American Civil Liberties Union. “State Standards for Pregnancy-Related Health Care and Abortion for Women in Prison – Map.” <http://www.aclu.org/state-standards-pregnancy-related-health-care-and-abortion-women-prison-map#2> 19.01.2012

<sup>304</sup> Alex Berg. “Stop Shackling Pregnant Prisoners.” The Daily Beast, 04.09.2011. <http://www.thedailybeast.com/articles/2011/09/04/stop-shackling-pregnant-prisoners-new-push-to-ban-controversial-practice.html> 30.01.2012

<sup>305</sup> Alex Berg. “Stop Shackling Pregnant Prisoners.” The Daily Beast, 04.09.2011. <http://www.thedailybeast.com/articles/2011/09/04/stop-shackling-pregnant-prisoners-new-push-to-ban-controversial-practice.html> 30.01.2012

<sup>306</sup> Alex Berg. “Stop Shackling Pregnant Prisoners.” The Daily Beast, 04.09.2011. <http://www.thedailybeast.com/articles/2011/09/04/stop-shackling-pregnant-prisoners-new-push-to-ban-controversial-practice.html> 30.01.2012

<sup>307</sup> Alex Berg. “Stop Shackling Pregnant Prisoners.” The Daily Beast, 04.09.2011. <http://www.thedailybeast.com/articles/2011/09/04/stop-shackling-pregnant-prisoners-new-push-to-ban-controversial-practice.html> 30.01.2012

“I went to the infirmary and reported to them that I was having labor pains. They timed my contractions and told me that they had to be 2 to 3 minutes apart. At that time they were 6 to 7 minutes apart, so they sent me back to my barrack. Once the contractions got close enough according to policy, I was transported to Newport hospital. Once I arrived at the delivery room, my feet were shackled to the bed and my hand was shackled to the intravenous rail. I asked for the chains to be removed, I asked for pain medicine, and I even asked for a Cesarean because my pains were so tremendous. I did not have any pain medicine; the only thing I was given was 2 Tylenols. When the nurses came in, the guard would remove the chains, but as soon as the nurses left the room, the guard would shackle me back. I felt that the guard was trying to teach me a lesson of being pregnant and being in prison. They unhooked the chains (the handcuffs and the shackles) for me to deliver the baby. Once I delivered the baby, they re-shackled me.”<sup>308</sup>

Nelson was also shackled for the 24-48 hours the Department of Corrections allow an inmate to be with the newborn before returning to prison. Nelson’s 9-pound baby was born healthy, but Nelson herself suffers from severe back pains and damage to her sciatic nerve after the traumatic experience.<sup>309</sup> Nelson sued the Department, charging that her treatment violated the Eighth Amendment’s protection against cruel and unusual punishment. Nelson says that:

“That was a horrific experience to me, and I do not want anyone to experience the horrifying things that happened to me. It affects you both emotionally and physically. You are already in a stressful situation by being in prison, so why add to the stress by shackling someone in labor. You have already been sentenced for your crime, so it is really cruel and unusual to be shackled during childbirth. The baby is an innocent bystander in the whole situation.”<sup>310</sup>

Although Nelson challenged the use of restraints during labor in Arkansas, the state has yet to ban the practice.

Another inmate reported to Amnesty International that:

“[b]ecause I was shackled to the bed, they couldn’t remove the lower part of the bed for the delivery, and they couldn’t put my feet in the stirrups. My feet were still shackled together, and I couldn’t get my legs apart. The doctor called for the officer, but the officer had gone down the hall. No one else could unlock the shackles, and my baby was coming, but I couldn’t open my legs.”<sup>311</sup>

This clearly highlights the type of unnecessary torture that shackling poses. The inmates at Indiana Women’s Prison, Bobbi Brush and Heather Laster, both gave birth in shackles. The

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<sup>308</sup> RH Reality Check, “In Labor and in Chains.” 05.10.2009 <http://www.youtube.com/watch?v=CWj1uHdxnt8> 15.02.2012

<sup>309</sup> Adam Liptak. “An ex-convict challenges shackling women in labor.” The New York Times, 05.03.2006. <http://www.nytimes.com/2006/03/05/world/americas/05iht-labor.html> 15.02.2012

<sup>310</sup> RH Reality Check, “In Labor and in Chains.” 05.10.2009 <http://www.youtube.com/watch?v=CWj1uHdxnt8> 15.02.2012

<sup>311</sup> Dana L. Sichel. “Giving Birth in Shackles: A Constitutional and Human Rights Violation.” *Journal of Gender, Social Policy & the Law* 16.2(2008)

four pregnant inmates At Coffee Creek Correctional Facility (CCCF) in Oregon also experienced the procedure of shackling. Trisha's feet and hands were shackled when transported to and from the hospital. There were two prison guards with her in the delivery room, and she got to hold her baby for 18 minutes. After delivery, Trisha had to be strip searched when she returned to CCCF. Trisha says "that is not the way you want to remember the birth of your child."<sup>312</sup> Trisha recalled being numb when she got back from the hospital. Hair loss and a sense of denial with regard to the pregnancy persisted. Trisha's story is not unique. Kristin broke down emotionally after birth. She had to be medically cleared in order to return back to general population. Christina was also strip searched while having contractions. All the women are sent to the hospital wearing orange jump suites, making them stand out in a humiliating way.<sup>313</sup> But the humiliation and lack of privacy is maybe a small price to pay compared to being forced to give your baby away. Giving birth alone without family and friends is typical for prisoners. Often relatives live too far away or there is no family to call at all.

The practice of shackling during labor and delivery seems unnecessary. The majority of pregnant inmates, 71%, are non-violent offenders. Most of them are in prison for a short period of time due to drug-related crimes.<sup>314</sup> Jeanne Conry, a district chair of American Congress of Obstetricians and Gynecologists, makes the point that "I'm sure you can create your own visual about a woman eight centimeters dilated and in labor. The chances of her getting up and running away are pretty slim."<sup>315</sup> As Conry predicts, the flight risk of a pregnant woman in labor is fairly small. The correctional officers who are in the delivery room with the inmate are also equipped with guns. It makes little sense to also restrain the

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<sup>312</sup> Randi Jacobs. *A Sentence for Two* (2008)

<sup>313</sup> Randi Jacobs. *A Sentence for Two* (2008)

<sup>314</sup> Malika Saada Saar. "Treating Mothers with Dignity, Ending the Practice of Shackling during Delivery." Center for American Progress, 09.05.2007. <http://www.americanprogress.org/issues/2007/05/shackling.html> 31.01.2012

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woman to the bed. Not only is giving birth painful on its own, but giving birth in shackles adds extra stress, and above all—it is traumatizing and demeaning.

## CHAPTER 5: CONCLUSION

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The American correctional system is huge, costly, and brutal. When comparing the system to any other western country, the United States stands alone when it comes to the magnitude of its penal system. Norway, for instance, who has a relatively small prison population compared to the United States, supports the idea of rehabilitation, while American prisons are for punishment. Prisons in America are not a place you want to be. And so it should be. However, statistics show that more often than not, prisoners of the American penal system find themselves locked up repeatedly. It seems that many prisoners are neither rehabilitated nor deterred from going back to committing crimes once they are out of the brutal life of American prisons. Setting the babies aside, it may be that the humane environment of a prison nursery or community-based alternative make the women residing there more civilized than if they were in the general population of the prison. More privacy and less brutality, like the Norwegian system, may help reduce the recidivism rate for repeat offenders.

Unlike the Norwegian system, where the incarcerated are not stripped of their rights but only their freedom, American prisoners are literally put in cages. Norwegian prisoners have their own comfortable cells, and they are free to wear what they want and are rarely handcuffed if transported outside the prison. American prisoners, on the other hand, are put in jump suites and are usually handcuffed and/or shackled when transported from the prison. The issue of rehabilitation versus punishment comes into light when comparing the two countries. However, when looking at the two different ways of incarceration, finding a penal system in between would be more ideal, as the Norwegian system tends to be too lenient toward its prisoners and vice versa in the United States.

While it is difficult to terminate parental rights in Norway, the United States lowered the threshold for termination with the Adoption and Safe Families Act (ASFA) in 1996. The law states that a child can only stay in the foster care system for 15 months before the child is

put up for adoption. Incarcerated mothers who are locked up for several years have, therefore, little if anything to say with regard to their child. The law is groundbreaking in that the federal government can control your rights as a parent. The government can physically take your offspring and place them somewhere they deem safe. The challenge in child welfare is to balance a parent's rights to raise their child with the government's obligation to ensure that the child is taken proper care of. Inmates, who are not the primary caregiver while incarcerated, are more vulnerable than other mothers with this law.

When the ASFA law was implemented, it did not take into consideration America's incarcerated population. It is ten times more difficult for a mother behind bars to fight for her child than it is for a mother outside of prison. Even though the law is there to protect the child, every prisoner's case is unique and should, therefore, be treated as such. Due to the harsh penal system, many first-time offenders who have committed small petty crimes end up having to serve long sentences, which ultimately may jeopardize their parental rights. Reckless behavior has huge consequences in the United States. However, it is important to mention that repeat offenders who have several children scattered around with relatives and some in the foster care system do not deserve their parental rights. It is questionable whether inmates who are pregnant for the 7<sup>th</sup> or 8<sup>th</sup> time, like for instance Bobbi Brush and Heather Laster at Indiana Women's Prison, are able to take care of their children. Prison nurseries are not a free-haven from prison life, as Brush and Laster seem to believe, but rather a place where crucial bonding between mother and child can be established.

The health care in women's prisons is spotty at best and non-existent in many correctional facilities. It varies greatly from state to state and is, more often than not, better in the states that offer prison nurseries. Infirmarys and gynecological services are often scarce in women's prisons. This is peculiar, as female inmates' medical attention is often related to sexually transmitted diseases, menstrual issues, prenatal and postpartum care, and cancer



examinations. For pregnant inmates, prenatal care is crucial, and in many correctional facilities across the country, the treatment is poor. Even though all prisons are to follow certain requirements with regard to prenatal and postpartum care, many pregnant inmates are not treated with dignity and are often ignored by prison staff. In fact, in some cases they are left in their cells faced with giving birth alone or in front of their cellmates. Premature births, severe complications, damage in newborns, or even death are some of the risks these incarcerated women face. Depending on where you are serving time may have a great impact on the outcome of your pregnancy. The issue of shackling is also a practice that is used in too many states for dubious reasons. Although there are laws banning the practice in several states, it is widely used in those states that have no ban. In Norway, inmates have the same health care rights as the rest of the population. In most women's prisons in the country, there is an on-site infirmary staffed with a doctor and several nurses. Pregnant inmates can also see a midwife outside the prison if she chooses to. Shackling pregnant inmates is unheard of in Norway. They are only handcuffed, if that, when transported to the hospital for delivery. There seems to be a general attitude on the part of some people in the United States that inmates do not deserve to be treated with the same human rights as the rest of us. Just because they are prisoners does not mean they should not get the usual health care. It is important to remember that the unborn babies are innocent bystanders who do not deserve to be exposed to unnecessary danger just because their mothers happens to be in prison at the time of their births. It is also important to mention that although health care is not a right in the United States, prisoners have more access to it than some others not incarcerated, for instance, the poor working class.

So how are pregnant inmates and their babies treated in the American correctional system? The answer is—it definitely depends on where you are serving time. Some prisons have mother-child programs in place, others do not. Health care varies greatly. Although all

pregnant inmates receive prenatal care, the type of care can be poor to great. Again, it all depends on the correctional facility. Unborn babies are, without a doubt, shielded from drug abuse when their mothers are behind bars. This is possibly the only positive outcome of being born in prison. Female inmates' parental rights are in jeopardy once they are locked up. Parental rights that get revoked are more than justified in many instances. For others, the ASFA law seems too harsh. However, the law is there to protect the child, which, at the end of the day, is most important.

Needless to say, prison is not the ideal place for children. There should be a discussion on whether community-based programs are the ultimate solution. By placing mothers and mothers-to-be in these programs, the whole "babies behind bars" issue could be done away with. The infants and the older children would not be faced with razor wires and steel bars, but rather with a more humane and child-friendly environment. Although, prison nurseries across the country are decorated to resemble nurseries, they are nevertheless inside prison walls. The nurseries are good initiatives, but serving out the remainder of their sentence with their infant in a non-prison setting, may be more effective. Most of the women participating in prison nursery programs present little risk to public safety. I question if the time spent in prison with an infant is not better spent in a community-based family treatment program where incarcerated mothers can learn about themselves and their children. The ideal goal would be not to advocate for more prison nurseries, but rather work in the community to prevent women from ending up in the prison system in the first place. It is also important to mention that due to the overwhelming numbers of mothers behind bars, more prisons need to facilitate these mother-child bonding programs and make it easier for the child to visit their mother.

It is important to take into account those ex-convicts who have successfully reentered society with their children. However, the child is, in many cases, left to grow up with a

mother who may or may not be able to take care of the child or herself. It is difficult to take a stand on this issue. On one side, you have first-time offenders who I sympathize with and believe are treated too harshly when it comes to their unborn babies. They should, in many instances, be given a second chance to redeem themselves. On the other side, you have repeat offenders who have been given several chances and have proven not to be fit caregivers. This group, I have no compassion for. Many of these women believe that they are not bad mothers, only that they have made bad choices. I would argue that the bad choices these women have made make them unfit mothers. It does not matter what background you have, there is never a good excuse to abandon your child, like many of these repeat offenders have. Some would say that the child belongs with the mother. That is often the best and most natural thing, but not at all costs. Looking at studies and statistics, babies of incarcerated mothers are starting out with the odds stacked against them. Although the issue is difficult, I would argue that adoption may be in the best interest of the child if it happens directly after birth. Then the baby will get the crucial bonding time with an adoptive parent and, most likely, have a better chance in life. It is evident, however, that serving time in American prisons is very hard, and it is even harder for the thousands of mothers and pregnant inmates imprisoned across the country. The ones that are most affected by this mass incarceration, however, are the children.

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